98th Congress } HOUSE OF REPRESENTATIVES { Report
2d Session } { 98-827

WATER QUALITY RENEWAL ACT OF 1984

June 6, 1984.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. Howard, from the Committee on Public Works and Transportation, submitted the following

REPORT

together with

ADDITIONAL AND SUPPLEMENTAL VIEWS

[To accompany H.R. 3282]

[Including cost estimate of the Congressional Budget Office]

The Committee on Public Works and Transportation, to whom was referred the bill (H.R. 3282) to amend the Federal Water Pollution Control Act to provide for the renewal of the quality of the Nation's waters, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment strikes out all after the enacting clause of the bill and inserts a new text which appears in italic type in the reported bill.

The existing Water Pollution Control Program stems from the complete rewrite of prior water pollution control laws which was incorporated in the Federal Water Pollution Control Act Amendments of 1972. The 1972 Act established as goals the reduction and ultimately the elimination of discharges of pollutants from municipal sewage systems and industrial plants. An interim goal of July 1, 1983, was established to achieve, wherever attainable, fishable and swimmable water quality in all of the rivers, lakes and streams of the nation.

The 1972 Act established two primary mechanisms for the accomplishment of these goals. First, all industrial and municipal dischargers were required to treat their wastes to clearly definable minimal levels based on best practicable and best available technol-

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ogies. Beyond those minimum levels, dischargers were required to comply with any more stringent state or Federal requirements based on receiving water quality standards. These requirements were to be enforced nationwide through permits required for every point source discharging into navigable waters.

The technology-based minimum treatment requirements were to be imposed in increasingly stringent steps. For industries, effluent limitations reflecting application of the best practicable control technology currently available were to be achieved by 1977. The corresponding 1977 effluent limitation for municipalities was secondary treatment. By 1983, industries were to achieve effluent limitations corresponding to the best available technology economically achievable.

The second mechanism was a significantly strengthened program of grant assistance to municipalities for the construction of sewage treatment facilities to meet the requirements of the Act. The Federal share of eligible project costs was raised to 75 percent and $20.75 billion was authorized for grants, including reimbursement grants, for the construction of treatment facilities under the new law.

These two fundamental concepts have remained essentially the same since the 1972 Act, although there have been several additional amendments. The first of the important changes in the law were enacted in 1977. These were the "mid-course corrections" which had been contemplated since 1972. The 1977 amendments authorized an additional $25.5 billion for the Construction Grants Program. In addition, they established a program for encouraging innovative and alternative approaches to wastewater treatment and initiated a mechanism for turning over more of the management of the grants program to the states. The 1977 Act also placed greater emphasis on the control of toxic pollutants and imposed new dates of required best available technology and best conventional technology compliance for toxic pollutants, conventional pollutants, and other pollutants which fell into neither of these categories. For all toxic pollutants referred to in Table 1 of Committee Print 95–30 of the Committee on Public Works and Transportation of the House of Representatives (the so-called priority pollutants), the compliance date was set at not later than July 1, 1984. For all toxic pollutants listed pursuant to the provisions of section 307(a) of the Act, compliance with effluent limitations was required not later than three years after the date of establishment of the effluent limitations. For conventional pollutants, the compliance date was set at not later than July 1, 1984. For other pollutants which fall neither within the conventional or toxic categories, the compliance date was set at not later than three years after the date of the establishment of effluent limitations, or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987.

The other significant changes to the 1972 Act occurred in the 1981 amendments, which related primarily to the Construction Grants Program. In the 1981 Act, the Federal share was reduced from 75 to 55 percent beginning in fiscal year 1985. In addition, eligible categories for grant assistance were limited to treatment works, associated interceptor sewers and correction of inflow/infiltration problems also beginning in fiscal year 1985. Other items such as problems associated with combined sewer overflows and construction and repair of collector sewers, were eliminated from grant eligibility. This was tempered somewhat by a provision which allowed grants to be made for these otherwise ineligible categories in an amount not to exceed 20 percent of a state's allotment as determined by the Governor. Also, grants for planning and design were eliminated and replaced by a provision which provided for an allowance for planning and design costs when a step three construction grant was approved. In order to preserve some continuity in the program, the new provisions with regard to the amount of the Federal grant share were not made applicable to projects which received construction grants prior to the end of fiscal year 1984, but only for the new eligible categories.

The 1972 Act has resulted in significant improvement in the control of discharges of pollutants into the nation's waters. Studies indicate that at the very least, pollution loads have not increased even though substantial increases in population and industrial discharges have occurred. However, the program has not performed as well as expected due primarily to uncertainties in funding, insufficient levels of funding, and delays in promulgation of effluent standards for industrial dischargers.

H.R. 3282, as reported by the Committee, is designed to correct difficulties existing with regard to the program and to significantly improve the effectiveness of the water pollution control program. The bill provides for an increase in the total authorization for construction grants, a separate grant system to enable states to establish revolving funds to assist communities within the state in constructing needed sewage treatment facilities, reinstatement of combined sewer overflow projects and collector sewers as eligible categories for grant assistance, an increase in the Federal share for the construction of publicly owned treatment works to 65 percent, and the extension of compliance dates for the achievement of best available technology and best conventional technology, to reflect the delays which have occurred in the promulgation of the effluent limitations.

In developing this legislation, the Committee had the benefit of information presented by 184 witnesses in 15 days of hearings during the 98th Congress, as well as additional hearings during the 97th Congress. These witnesses included Members of Congress, representatives of State and local governments, industry and environmental organizations, and other interested individuals and organizations. A truly comprehensive hearing record was established and was reviewed carefully by the Subcommittee on Water Resources and the full Committee. The Committee believes that the bill, as reported, represents a balanced approach designed to address problems associated with the water pollution control program and to improve its effectiveness.

Two provisions in the introduced bill do not appear in the reported bill. These are original section 6, which established specific criteria for changes in water quality standards, and section 10, which related to the section 404 program. Section 404 regulates the discharge of dredged or fill materials into waters of the United States.

The Committee believes that it is unwise from a legislative point of view to codify regulations or parts of regulations except in the most unusual circumstances. This is especially true with regard to a program such as the water pollution control program, where, of necessity, some discretion must be left to the administering agency. Standards and conditions may be established through legislation, but it is not possible to address in detail every contingency which might arise following enactment of the legislation. It must be left to the administering agency and the courts, combined with the continuing oversight responsibility of the Congress, to ensure that the program is being implemented in accordance with Congressional intent. The interstices of the overall regulatory scheme must, of necessity, be left to be filled in through the executive, administrative, and judicial processes.

It is for these reasons that the Committee decided to delete the provisions in the introduced bill regarding water quality standard regulations and the application and content of section 404(b)(1) guidelines.

Section 6 of the introduced bill codified certain provisions of earlier regulations relating to the establishment by the States of water quality standards. This provision was included as a response to a proposed new regulation which many were concerned would have made it easier to downgrade water quality standards. Following introduction of the bill, the Environmental Protection Agency revised its original proposal and promulgated water quality standards regulations in November of 1983, which the Committee regards as satisfactory. The changes made in the original proposed regulatory changes are an example of how public comment and Congressional oversight can work effectively to ensure that the intent of the basic law is maintained. In view of the new regulations, the Committee feels it is no longer necessary to retain the specific provisions originally contained in section 6 of the introduced bill. The Committee will, however, as it has done in the past, continue to monitor the actions of the Environmental Protection Agency with regard to these and other regulations and to fully exercise its oversight responsibility.

With regard to section 10 of the introduced bill relating to section 404, the Committee made the same decision. Section 404 provides that the Secretary of the Army may issue permits for the discharge of dredged or fill material into the navigable waters at specified disposal sites. Each such disposal site is to be specified for each permit by the Secretary through the application of guidelines developed by the Administrator in conjunction with the Secretary. These are the section 404(b)(1) guidelines. Section 10 of the introduced bill required the guidelines developed by the Administrator to prohibit specification of a disposal site unless the Secretary of the Army determines that discharge of dredged or fill material at the site will not, by itself or in combination with other pollutants, have an unacceptable adverse effect on the aquatic environment, and that there is no practicable alternative to the proposed discharge (taking into account economic and social costs and technological feasibility) which will have less adverse effect on the aquatic environment and will not have other significant adverse environmental consequences. Section 10 also set forth requirements for interagency coordination of permits under section 404.

Among other things, the Committee was concerned that paraphrasing or excerpting portions of these guidelines could create confusion about the effectiveness of those portions of the guidelines which were not paraphrased or excerpted. Incorporating only a part of the guidelines in the statute could well lead to administrative and judicial interpretations that less weight should be given to those requirements not included specifically. It was therefore decided that the better course of action was to not address portions of the guidelines in the legislation, but rather to leave them as they are.

The existing section 404(b)(1) guidelines promulgated in December of 1980, contain a wide range of provisions designed to preserve the integrity of the nation's waters. For example, the guidelines provide that it is a fundamental precept that dredged or fill material should not be discharged into the aquatic ecosystem unless it can be demonstrated that such a discharge will not have an unacceptable adverse impact, either individually or in combination with known and/or probable impacts of other activities affecting the ecosystem of concern. They provide that no discharge of dredged or fill material, except as provided under section 404(b)(2), which relates to navigation, shall be permitted if there is practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmetal consequences. An alternative is considered practicable if it is available and capable of being done after taking into consideration cost, existing technology and logistics, in light of overall project purposes. In addition, no discharge of dredged or fill material is to be permitted if it causes a violation of any applicable State water quality standard, causes significant degradation of the waters of the United States, and all appropriate and practicable steps have not been taken which would minimize potential adverse impacts of the discharge on the aquatic ecosystem.

The Committee feels that the principles underlying the section 404(b)(1) guidelines are sound. The deletion of section 10 should in no way be construed as an indication that the Committee disagrees with the basic principles contained in these guidelines. As in the case of the water quality standards regulations, the Committee will continue to monitor the situation and to fully exercise its oversight responsibility.

With regard to section 10(b) of the introduced bill, which established administrative procedures for review of decisions on permits, the Committee has determined that this is best left to the agencies involved. The Committee would urge, however, that steps be taken to ensure that comments of interested Federal agencies on permit applications be given full consideration and that provision be made for review of controversial applications at the Washington level, where appropriate.

Section 316(a) of the Federal Water Pollution Control Act authorizes a thermal discharge limitation less stringent than the limitation proposed for a facility if the lesser standard assures "a balanced, indigenous population of shellfish, fish and wildlife" in the affected body of water.

H.R. 3282 does not modify section 316(a). It has been suggested, however, that the statute could be interpreted to contradict Congress' intent. A case in point is New Jersey Central Power and Light Company's Oyster Creek Nuclear Generating Station in Ocean County, New Jersey. The Committee understands that prior to the plant's construction the stream which serves as its discharge canal was a low flow, brackish creek. Water quality and aquatic life productivity were both poor. Fish would not reproduce in the creek and mortality rates were high.

In constructing the plant the stream was dredged and modified extensively. This permanently changed the salinity and temperature of the stream. Unlike its historic character, the stream now has a thriving, diverse fish and shellfish community. Nevertheless, it has been suggested that this community is not "indigenous" under section 316(a), and the plant, therefore, is ineligible for a variance under the statute.

The Committee does not agree with that suggestion. The Committee believes that a thermal discharge variance under the statute is fully consistent with the conditions noted in the example described above.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 provides that this Act may be cited as the Water Quality Renewal Act of 1984.

SECTION 2

This section continues through Fiscal Year 1988 authorizations at existing levels for a number of programs in the Water Pollution Control Act as follows:

$22,770,000 per fiscal year for research activities and investigations on the causes and effects of water pollution.

$3 million per fiscal year for the training of personnel who operate and maintain treatment plants.

$1,500,000 per fiscal year for forecasting the supply of and demand for occupational categories needed in the water pollution control field.

$75 million per fiscal year for grants to State and interstate agencies to assist in administering programs for water pollution control.

$7 million per fiscal year for grants to educational institutions for programs to train personnel in the operation of water pollution control facilities and to provide scholarships for students entering the field of operation and maintenance of publicly owned treatment works.

$100 million per fiscal year for grants under section 208 for developing and operating areawide waste treatment management planning processes.

$100 million per fiscal year for the rural clean water program.

$100 million per fiscal year to implement interagency agreements for the utilization of other Federal laws to assist in controlling water pollution.

$30 million per fiscal year for the Clean Lakes Program, which provides for the restoration of the quality of water in lakes.

$160 million per fiscal year for general administration of the Federal Water Pollution Control Act by the Environmental Protection Agency.

SECTION 3

This section increases the authorization level for the Construction Grants Program from its present level of $2.4 billion per fiscal year. The new amounts are $2,900,000,000 for fiscal year 1985, and $3,400,000,000 per year for fiscal years 1986, 1987 and 1988.

SECTION 4

This section extends the compliance dates for achievement of best available technology and best conventional technology.

Subsection (a) of section 4 extends the compliance date for all toxic pollutants referred to in Table 1 of Committee Print 95-30 of the House Committee on Public Works and Transportation (the priority pollutants). Compliance is to be as expeditiously as possible, but in no case later than three years and six months after the date such effluent limitations are established.

Subsection (b) of section 4 extends the compliance date for all other toxic pollutants which may be listed under 307(a). Compliance is to be as expeditiously as possible, but in no case later than three years and six months after the date of establishment of any applicable effluent limitations.

Subsection (c) of section 4 extends the compliance date for application of best conventional technology (for conventional pollutants—biological oxygen demand, fecal coliform, suspended solids and pH) from July 1, 1984, to July 1, 1987.

Subsection (d) of section 4 extends the requirements for best available technology for all other pollutants. Compliance is to be as expeditiously as possible, but in no case later than three years and six months after the date the effluent limitations are established.

Subsection (e) of section 4 requires the Administrator of the Environmental Protection Agency to promulgate final regulations establishing effluent limitations for direct dischargers and limitations requiring pretreatment for all of the toxic pollutants referred to in Table 1 of Committee Print 95-30 in accordance with the following schedule:

Category:	*Date by which the final regulation shall be promulgated*
Foundries	June 30, 1984.
Inorganic chemicals (phase II)	June 30, 1984.
Nonferrous metals forming	Oct. 31, 1984.
Organic chemicals and plastics and synthetic fibers	Feb. 28, 1985.
Pesticides	Nov. 30, 1984.

Date by which the final regulation shall be promulgated—Continued

Plastics molding and forming	Sept. 30, 1984.
Nonferrous metals (phase II)	Nov. 30, 1984.

SECTION 5

This section provides for the development and implementation of individual control strategies to achieve compliance with applicable water quality standards where it is determined that such compliance will not result from the application of best available technology and best conventional technology.

Subsection (a) requires the Administrator, in cooperation with the States, and not later than one year after the date of enactment of this legislation, to publish in the Federal Register a list of all navigable waters in each State for which the Administrator does not expect the applicable water quality standard to be achieved after the requirements for best available technology and best conventional technology are met, due entirely or substantially to discharges from point sources of toxic pollutants listed pursuant to section 307(a). For each segment of the waters included on this list, the Administrator is to determine the specific point sources discharging toxic pollutants which are believed to be preventing or impairing water quality, and the amount of each toxic pollutant discharged by each source. At a minimum, the Administrator is to consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after the date of enactment of the subsection.

Not later than one year after the date of publication of the list, the Administrator, in cooperation with the States, is to issue proposed regulations setting forth for each listed segment of the navigable waters an individual control stragegy. Each strategy shall produce a reduction in the discharge of toxic pollutants from point sources identified by the Administrator, through the establishment of effluent limitations and water quality standards which reduction is sufficient, in combination with other controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than three years after the date of promulgation of the final strategy.

Subsection (b) amends the citizens suits provision of section 509 of the Act to allow interested persons to bring a legal action for review of the Administrator's promulgation of individual control strategies under section 6.

SECTION 6

Subsection (a) of this section increases the maximum amount of a civil penalty for violating certain provisions of the Act from $10,000 per day to $20,000 per day.

Subsection (b) provides that the Federal Water Pollution Control Act shall not be construed as requiring a State to have a civil penalty for violations described in section 309(d) which has the same monetary amount as the civil penalty establishment by this section. This relates to the requirement in the Act that a State have adequate enforcement and penalty provisions in order to assume management of the National Pollution Discharge Elimination System under section 402 of the Act.

SECTION 7

This section directs the Administrator, in cooperation with interested States and Federal agencies, to study and monitor the effects on the quality of navigable waters attributable to the impoundment and discharge of water by dams. The results of this study, together with recommendations for the control of such impoundment and discharges, shall be submitted to Congress not later than December 31, 1985.

SECTION 8

This section adds a new section 319 to Title III of the Federal Water Pollution Control Act, to provide for nonpoint source control implementation programs.

Subsection (a) of new section 319 provides that the Governor of each State shall prepare and submit to the Administrator for his approval a report which:

> Identifies those portions of the navigable waters within the State which, as a result of pollution from nonpoint sources in whole or in part, are not meeting applicable water quality standards or the goals or requirements of the Act;
>
> Identifies those categories and subcategories of nonpoint sources which add significant pollution to each portion of the navigable waters identified under the preceding provision, in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;
>
> Identifies and describes State and local programs for controlling pollution added from nonpoint sources to and improving the quality of, each such portion of the navigable waters, including but not limited to those programs which are receiving Federal assistance;
>
> Describes the process, including intergovernmental coordination and public participation, for identifying best management practices and measures to control nonpoint sources of pollution.

Subsection (b) of new section 319 provides that the Governor of each State shall prepare and submit to the Administrator for his approval:

> A plan which the State proposes to implement, in the first four fiscal years beginning after the date of submission of the plan, for controlling pollution from nonprofit sources;
>
> A report which identifies each department, agency, or instrumentality of the United States, and each department, agency, or instrumentality of the State, which is likely to be engaging in, supporting or providing financial assistance for any activity or program in the State which, if carried out, would be inconsistent with implementation of the State's plan for controlling nonpoint sources. This report is to recommend to the Administrator methods by which Federal departments could modify administration of their activities or programs and describe meth-

ods by which the State intends to modify administration of its activity or program so that the activity or program is consistent with and assists the State in implementation of its plan for control of nonprofit sources.

Each plan proposed for implementation must specify:

For those portions of navigable waters significantly affected by nonpoint pollution, the particular portion of navigable waters and the land area contributing such pollution with respect to which the State plans to assist, encourage, or require implementation of best management practices and measures in the first four fiscal years beginning after the date of submission of the plan;

The order in which, and the schedule under which, the State plans to assist, encourage, or require implementation of such practices and measures in such fiscal years;

The categories and subcategories of nonpoint sources of pollution with respect to which the State plans to assist, encourage, or require implementation of such practices and measures;

The best management practices and measures, the implementation of which the State plans to assist, encourage, or require;

The methods by category and subcategory of sources of pollution, which the State plans to use to assist, encourage or require implementation of such practices and measures; and

Sources of Federal and other assistance which will be available for supporting implementation of such practices and measures and the purposes for which the assistance will be used in each of the fiscal years.

Each plan submitted by a State under this subsection shall be accompanied by a certification of the Attorney General of the State, or the chief attorney of any State water pollution control agency, that the laws of the State provide adequate authority to implement the plan or, if adequate authority does not exist, a list of the additional authority which will be necessary to implement the plan.

The implementation schedule must establish for each category and subcategory of nonpoint sources of pollution an expeditious period for implementation of best management practices and measures and shall include the estimated dates for implementation of these practices and measures.

In developing and implementing a plan under this section, a State is required, to the maximum extent practicable, to utilize local, public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

The States are directed, to the maximum extent practicable, to develop and implement nonpoint source control plans on a watershed-by-watershed basis.

Subsection (c) of new section 319 requires that any report required by subsection (a) and any plan and report required by subsection (b) shall be submitted to the Administrator during the 270-day period beginning on the date of enactment of this legislation, except that, upon request of the Governor, the Administrator shall extend this period for not to exceed an additional 270 days.

If the Governor of a State does not submit the report required by subsection (a) during such period (the report describing existing

State programs and practices), the Administrator is to prepare the report for the State.

Subsection (d) of new section 319 directs the Administrator to consolidate recommendations for modifications of activities and programs submitted by the States and submit these consolidated recommendations to the appropriate departments, agencies and instrumentalities of the United States. Each such department, agency or instrumentality, to the maximum extent practicable and consistent with existing law, must accommodate these recommendations and carry out its own activities and programs in a manner which is consistent with and will assist implementation of the State's nonpoint source pollution control plan.

Subsection (e) of new section 319 provides that, subject to paragraph 2, not later than 180 days after the date of submission of any report or plan under this section, the Administrator shall either approve or disapprove the report or plan as the case may be. The Administrator may also approve or disapprove a portion of a plan. If the Administrator does not disapprove a report, a plan, or a portion of a plan, in the 180-day period, it is deemed approved. Paragraph 2 provides that if, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies, the Administrator determines that the State plan or any portion of it is not likely to satisfy the goals and requirements of the Federal Water Pollution Control Act, that adequate authority does not exist or adequate resources are not available to implement the plan, or that the plan is not adequate to improve the quality of waters in the State, the Administrator is directed to disapprove the plan or portion of the plan with respect to which the Administrator makes his determination. The Administrator must notify the State of any disapproval and request specific revisions of the plan or portion of the plan necessary to obtain approval. Not later than 90 days after the date of this notification, the State must submit its revised plan to the Administrator for his approval.

Subsection (f) of new section 319 provides that, if a State fails to submit a plan or the Administrator does not approve a plan for the control of nonpoint sources of pollution, a local agency or organization which has expertise in, and authority to, control pollution resulting from nonpoint sources in any area of the State which the Administrator determines is of sufficient geographic size, may, with the approval of the State, request the Administrator to provide technical assistance to it in developing for such area a nonpoint source pollution control plan. The agency or organization must submit its plan to the Administrator for his approval. If the Administrator approves the plan, the agency or organization shall be eligible to receive financial assistance for implementation of the plan as if the agency or organization were a State.

Subsection (g) of new section 319 provides that, upon request of the State, the Administrator may provide technical assistance to the State in developing a nonpoint source pollution control plan.

Subsection (h) of new section 319 provides that, if any portion of the waters in a State which is implementing a plan approved under this section is not meeting applicable water quality standards because of pollution from nonpoint sources in another State, the State may petition the Administrator to convene, and the Administrator shall convene, a management conference of the involved States which contribute pollution resulting from nonpoint sources. If, on the basis of information available to him, the Administrator determines that a State is not meeting applicable water quality standards because of pollution from nonpoint sources from another State, the Administrator shall notity the States. The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification whether or not the State requests the conference. The purpose of the conference is to develop agreement among the States to reduce the level of pollution.

A State contributing significant pollution from nonpoint sources to another State must submit to the Administrator for his approval a nonpoint source pollution control plan to reduce the level of pollution, or, if it has an approved plan, the State must revise the plan to reduce the level of pollution entering the other State.

Subsection (i) of new section 319 provides for grants to States with approved plans for the purpose of assisting the States in implementing the plans. The Federal share of the cost of the plan shall not exceed 50 percent of the cost incurred by the States. However, where the Administrator determines that a significant number of non-Federal, non-State interests in a watershed area are willing and able to enter into agreements to participate in nonpoint source pollution control measures, the grant shall be not less than 50 percent and not more than 60 percent. This bonus grant—of up to 10 percent—is intended to provide a greater incentive for individuals and local organizations to work together to solve nonpoint source pollution problems. The phrase "significant number of interests" is intended to provide the administrators of this program with the flexibility to include landowners, farmers, conservation districts, national resource districts, or other suitable regional nongovernmental organizations which may be functioning within a watershed, regardless of the size of the interest.

The State must enter into agreements with the Administrator of the Environmental Protection Agency to assure that the State will maintain its aggregate expenditures for programs for controlling pollution added to the navigable waters in the State from nonpoint sources and for improving the quality of waters at or above the average level of such State expenditures in the two fiscal years preceding the date of enactment of this subsection.

Each State which receives a grant under this section must submit to the Administrator a written report which describes the activities and programs carried out in the State under the grant and the progress made by such State in meeting the schedule specified under its State plan.

No grant may be made in any fiscal year to a State which in the preceding fiscal year received a grant under this section, unless the Administrator determines that the State made satisfactory progress in meeting the schedule specified by the State in its submitted and approved plan.

Not more than 15 percent of the amount appropriated to carry out this section may be used to make grants to any one State, including any grants to any local public agency or organization with authority to control pollution from nonpoint sources in any area of the State.

Beginning with fiscal year 1987, the Administrator is authorized to give priority in making grants, and shall give consideration in determining the Federal share of any grants, to any State which has included effective regulatory mechanisms in an approved State plan and has implemented such mechanisms in the preceding fiscal year. Such mechanisms shall include, but not be limited to, deadlines for implementation of best management practices and enforcement procedures to ensure implementation of the State's plan.

There is authorized to be appropriated to carry out this grant program not to exceed $150 million per fiscal year for fiscal years 1985 through 1989.

Not later than January 1, 1985, and each January 1 thereafter, the Administrator is to transmit to the Committee on Public Works and Transportation of the House and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from nonpoint sources and improving the quality of these waters.

The Administrator is to transmit to Congress a final report on the activities carried out under this section. This report, at a minimum, is to include:

> An analysis of the effectiveness of plans carried out under this section, and of the best management practices and measures utilized under those plans in controlling nonpoint sources of pollution;
>
> An analysis of the level of State participation in implementing such plan;
>
> Recommendations of the Administrator concerning future programs, including enforcement programs, for controlling pollution from nonpoint sources.

Not less than 5 percent of the funds appropriated to carry out this section shall be available to the Administrator to maintain personnel levels at the Environmental Protection Agency which are adequate to carry out this section.

SECTION 9

Section 11 adds to section 101(a) of the Federal Water Pollution Control Act the statement that it is the national policy that plans for the control of nonpoint source pollution be developed and implemented in an expeditious manner, so as to enable the goals of the Act to be met through the control of both point and nonpoint sources of pollution. The intent of this section is to emphasize the importance of controlling nonpoint sources of pollution, together with point sources, so as to achieve the water quality goals of the Act.

SECTION 10

Section 13 amends subsection 104(h) of the Federal Water Pollution Control Act to require the Administrator to submit a lake restoration guidance manual to this Committee and the Committee on

Environment and Public Works of the Senate. The manual, to be submitted not later than one year after date of enactment of H.R. 3282, shall establish procedures to guide future State and local efforts to improve water quality in lakes.

Subsection 104(h) of the Act currently authorizes the Administrator to enter into contracts with or make grants to public or private agencies for the purpose of developing and demonstrating new or improved methods for the prevention, removal, reduction, and elimination of pollution in lakes. As part of this effort, the Committee understands that EPA's Office of Research and Development has spent considerable time and resources on an evaluation of the effectiveness of lake quality improvement techniques. It was expected that a guidance manual would be developed based on this work. This has not been done. The Committee believes that a guidance manual will significantly assist future State and local efforts to improve lake quality. Because the bulk of the background work has been done, the Committee is confident that a year or less is sufficient time for EPA to complete and submit this manual.

SECTION 11

Subsection (a) of section 11 amends section 201(g)(1) of the Federal Water Pollution Control Act by adding collector sewers and projects to address water quality problems due to impacts of discharges from combined storm water and sanitary sewer overflows to the list of categories which are eligible for Federal grant assistance.

Subsection (b) of section 11 amends section 201(n)(2) of the Act which provides grants to address water quality problems due to the impacts of discharges from combined storm water and sanitary sewer overflows into marine bays and estuaries by increasing the amount authorized from $200 million per fiscal year to $500 million per fiscal year.

Pollution resulting from combined sewer overflows is a severe problem in many parts of the country, particularly in older cities. One particular example is the discharges of untreated effluent as a result of sewer overflows into the Neponset River and Dorchester Bay and Boston Harbor in the Boston Metropolitan Area. In order to diminish the threat to public health posed by these discharges, the Committee expects funding priority under Section 15 to be used for combined sewer overflow improvement projects in this area.

SECTION 12

Subsection (a) of this section amends section 202(a)(1) of the Federal Water Pollution Control Act by changing the basic 55 percent Federal construction grant share to 65 percent.

The Municipal Wastewater Treatment Construction Grant Amendments of 1981, P.L. 97-117, amended the Act to provide the Federal grant amount for eligible projects in the regular program to be 55 percent of the cost of construction beginning October 1, 1984. Since the passage of P.L. 92-500 in 1972, the basic Federal grant share has been 75 percent. The effect of subsection (a) of section 12 will be that the change as of October 1, 1984, will be from 75 percent to 65 percent.

Subsection (b) of section 12 amends section 202(a)(1) of the Act by adding projects to address water quality problems due to impacts of discharges from combined storm water and sanitary sewer overflows. This is the subsection which provides that projects which have received a step three construction grant before October 1, 1984, will continue to receive a Federal grant of 75 percent until completion.

Subsection (c) of section 12 provides that, in the case of any project for which an application for a grant has been made before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, the project shall still be eligible for grants of 75 percent of the construction cost.

Subsection (d) provides that the activated bio-filter feature for treatment works of the City of Little Falls, Minnesota, shall be deemed to be an innovative wastewater process and technique and shall be eligible for the increased grants which the Act makes available for innovative technology projects.

The Little Falls projects is designed to use activated bio-filters (ABSs) in its treatment system. ABFs have been used in wasterwater systems before, but not as they would be used in Little Falls. In Little Falls, the ABF component will be part of the second stage in a tricking filter system. The innovative classification is appropriate because there exists little or no performance data on the optimum loadings, sizing, and other considerations with which the application can be designed without some risk. There is no other situation of ABFs having been used exactly as is being proposed in the Little Falls treatment works. In additional, there is doubt about how the extreme cold of Minnesota winters will affect performance.

Subsection (e) of section 12 amends section 202(a)3) of the Act. This section authorizes the Administrator to make grants to fund all the costs of the modification or replacement of any facilites constructed with a grant made available for innovative technology if the Administrator finds that the facilities have not met design performance, unless the failure is attributable to negligence on the part of any person.

Subsection (e) amends this provision by providing that, in addition, the Administrator is authorized to make a grant to fund all the costs of the modification or replacement of biodisc equipment (rotating biological contractors) in any publicly owned treatment works if the Administrator finds that the equipment has not met design performance specifications, unless the failure is attributable to negligence on the part of any person, and if the failure has significantly increased capital or operating and maintenance expenditures.

SECTION 13

Section 203(a) of the Federal Water Pollution Control Act requires each applicant for a grant to submit to the Administrator for his approval plans, specifications and estimates for each proposed project for the construction of treatement works for which a grant application is made. Section 13 amends this provision to provide that before taking final action on such plans, specifications and estimates, the Administrator must first enter into an agreement with the applicant which establishes and specifies to the extent practicable which items of the proposed projects are eligible for Federal payments under this section. Once this agreeement has been entered into, the Administrator may not refuse to make payments for the Federal share of those reasonable costs of any item specified in the agreement which are incurred on the project.

Under current law, once the Administrator approves a grant applicant's plans, specifications, and estimate, the approval constitutes a contractural obligation of the United States for payment of the Federal Government's proportional contribution to the project covered by the grant. Current Agency audit procedures permit construction grants to be obligated only for allowable costs. However, these costs are not determined until a final audit of the project grant is conducted. Thus, and EPA auditor is in a position to and often does reevaluate and override during the final audit process the previously approved allowable costs, despite the fact that the Agency had approved the plans and specifications for the project prior to obligation of the grant funds. This practice subjects grant recipients to a great deal of vulnerability during the audit process and leads, in some instances, to substantial and unplanned financial burdens for the grantee.

The purpose of section 13 is to emphasize and effectuate the Committee's intent that award to a grantee of a Title II wastewater treatment construction grant constitutes a binding contractual obligational of the Federal government. Where is the Administrator approves an agreed-upon specific project for grant funding, then under this provision the United States is contractually obligated to fund that project as it was approved, so long as the grantee acted in good faith and in accordance with the grant agreement and the costs are not in violation of Federal law. In this manner, the Agency's dealings with the States and with the grantees will be on a more reliable and business-like basis, with all parties knowing what costs are allowable for grant funding.

The Committee intends that the Administrator, in implementing section 13, will continue to review plans, specifications, and estimates to ensure that wastewater treatment projects are cost effective.

SECTION 14

Subsection 14(a) amends Section 204(a)(1) of the Federal Water Pollution Control Act to require the Administrator, before approving sewage treatment construction grants for any project, to determine that either any required areawide waste treatment management plan under section 208 is being implemented for such area and the proposed treatment works are included in such plan or that reasonable progress toward implementation is being made.

Subsection 14 (b) amends Section 205(a)(2) of the Act and requires similar conformance with plans and reports in sections 303(e) and 305(b) of the Act.

Subsection 14(c) provides that the amendments made in subsections (a) and (b) of section 18 shall take affect two years after the date of enactment of this legislation.

Section 204 of the Act provides certain conditions that the Administrator must assure are met before making grants. It provides at present for projects receiving funding to be part of existing plans and in conformance with sections 303(e) and 305(b). The amendments in section 14 seek to provide additional assurance that consistent program progress will be maintained by focusing on implementation.

The 208 program provides for the development of areawide waste treatment plans. Grant monies under section 208 are to be made available to identify pollution problems and decide on a management plan to address the problems. Section 303(e) requires each State to have a continuing planning process. Section 305(b) requires submission by each State every two years of a report on the water quality situation for that State.

The Committee, by adopting the amendments in section 14, intends that the programs of areawide planning and consistency with plans and programs to meet the goals of the Act be pursued. The plans developed under section 208, for instance, are not to be static documents to be written and ignored. The Committee expects to see these plans implemented in order to meet the goals of the Act. Similar use is expected of 303(e) and 305(b) requirements.

SECTION 15

Section 204(b)(1) of the Federal Water Pollution Control Act provides that, notwithstanding any other provisions of the Act, the Administrator shall not approve any grant for any treatment works unless he shall first have determined that the applicant has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction will pay its proportionate share of the costs of operation and maintenance of any waste treatment services provided by the applicant.

Section 15 amends this by providing that a system of user charges which imposes a lower charge for low-income residential users, as defined by the Administrator, shall be deemed to be a user charge system meeting the requirements of section 204, if the Administrator determines that the system was adopted after public notice and hearing.

SECTION 16

Subsection (a) section 16 includes conforming amendments to section 205(c)(2) of the Federal Water Pollution Control At which provides for allotment of funds authorized to be appropriated for the Construction Grants Program, and specifies the amount allotted to each State, for fiscal years through fiscal year 1985. Subsection (a) adds fiscal years 1986, 1987 and 1988 so as to conform with section 3 of H.R. 3282 which extends and increases the authorizations for construction grants through fiscal year 1988.

Subsection (b) of section 16 amends section 205(e) of the Act so that it conforms with the extension of the construction grant authorizations in section 3 of H.R. 3282.

Section 205(e) provides that, for fiscal years 1978, 1979, 1980, 1981, 1982, 1983, 1984 and 1985, no state shall receive less than one-half of one percent of the total allotment under subsection (c) of section 205, except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories, not more than thirty-three one-hundredths of one percent in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out subsection 205(e) there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $75,000,000 for each of fiscal years 1978, 1979, 1980, 1981, 1982, 1983, 1984 and 1985.

Subsection (b) of section 16 also adds fiscal years 1986, 1987 and 1988 to section 205(e) and changes the maximum amount available to Guam, the Virgin Islands, American Samoa and the Trust Territories from one-third of one percent to two-thirds of one percent in order to better meet their water quality needs.

Subsection (c) amends section 205(g)(1) of the Act so that it will conform with the extension of the Construction Grants Program in section 3 of H.R. 3282. Section 205(g)(1) authorizes the Administrator to reserve not to exceed four percent of a State's allotment of construction grant funds for the purpose of making grants to the State for the costs of administering aspects of the construction grants program which the Administrator has delegated to the State.

Subsection (c) also amends section 205(g)(1) by adding a provision that the Administrator shall reserve each fiscal year beginning after September 30, 1984, $900,000 from the sums available to the State of New York under the subsection for such fiscal year, $900,000 from the sums available to the State of New Jersey under the subsection for such fiscal year, and $200,000 from the sums available to the State of Connecticut under the subsection for such fiscal year. These sums shall be used by the Administrator to make a grant for each such fiscal year to the Interstate Sanitation Commission established by these States by interstate compact to carry out the functions of such Commission under the Federal Water Pollution Control Act. The Commission is an environmental agency of the States of New Jersey, New York, and Connecticut, established by an interstate compact having the consent of Congress. Among other things, the Commission has jurisdiction of a regulatory character over water quality in the tidal waters of northeastern New Jersey, southeastern New York, southwestern Connecticut Metropolitan Area. Specifically, the Interstate Sanitation District includes the Hudson River from the Bear Mountain Bridge to the ocean, Raritan and Sandy Hook Bays, the waterways of the New York Harbor Complex, and Long Island Sound westerly of a line from New Haven to Port Jefferson. The Commission monitors receiving waters and effluents, administers water quality standards, makes regulations containing both effluent limitations and receiving water quality standards, and has authority to enforce its regulations.

In view of the Commission's role in administering provisions of the Federal Water Pollution Control Act, the Committee considers it appropriate to provide additional grant assistance to the Commission under section 205(g).

Subsection (d) of section 16 is a conforming amendment to section 205(i) of the Act so that it will be consistent with the extension of the authorization for construction grants contained in section 3 of H.R. 3282. Section 205(i) provides that a total (as determined by the Governor of a State) of not less than four percent nor more than seven and one-half percent of the construction grant funds allotted to a State shall be used only to increase the Federal share of construction grants for construction of treatment works utilizing innovative or alternative processes and techniques. The increase in the grant for such treatment works is twenty percent greater than the Federal share established in section 202(a)(1), but in no event greater than eighty-five percent.

Subsection (e) of section 16 amends section 205(j)(3) of the Federal Water Pollution Control Act which directs the Administrator to reserve each fiscal year not to exceed one percent of the sums allotted and available for obligation for each State for water quality management planning. Subsection (e) provides that the State shall allocate at least 50 percent of the amount granted to the State for a fiscal year under the section to regional interstate public comprehensive planning organizations in the State, except in any fiscal year for which the Administrator and Governor of any State determine jointly that allocation of at least 50 percent to such organizations will not substantially assist in achieving the goals of the Act.

In the Municipal Wastewater Treatment Construction Grants Amendments of 1981 (P.L. 97-117), a new subsection, 205(j), was added to provide assured funding for a variety of planning purposes. The set-aside is to be for water quality management planning including, among other things: identifying cost effective and locally acceptable point and non-point measures; developing implementation plans; identifying water quality problems; and determining which publicly owned treatment works should be built, and for implementation of section 303(e) of the Act.

A key part of the provision in the 1981 Amendments, which is now part of the Federal Water Pollution Control Act, is:

> (3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undesignated public comprehensive planning organizations to carry out the purposes of this subsection.

Subsection (e) reinforces the original intent to have these organizations carry out a significant part of the program under section 205(j). Such comprehensive planning organizations are assured at least 50 percent of 205(j) funds. There is an exception to this requirement where the Administrator of EPA and the Governor jointly determine otherwise to recognize the differing circumstances among the States.

Subsection (f) of section 16 adds a new subsection to section 205 of the Federal Water Pollution Control Act which provides that one-fourth of 1 percent of any amount appropriated for the Construction Grants Program for any fiscal year after fiscal year 1984 shall be reserved by the Administrator for carrying out investigations and audits authorized by the Act of projects for which funds are made available under Title II.

This provision is based on information obtained by an investigation conducted by the Committee's Subcommittee on Investigations and Oversight. In 1981, that Subcommittee investigated problems associated with the construction of treatment works and the adequacy of EPA auditing procedures.

At the time of the Subcommittee's review, the EPA Office of Inspector General's (OIG) resources were so inadequate that it was facing a 70 work-year backlog in audit requests. Further, the OIG had virtually no investigators in two of the EPA's audit regions covering 27 states which had more than $10 billion in active Construction Grants Program projects. Information recently obtained by the Subcommittee indicates that by the end of this year the EPA will still be confronted with a backlog of as many as $1 billion worth of wastewater treatment projects in need of final audits.

Subsection (f), which would result in the allocation of some $6 million annually to the Inspector General's Office at the current level of Construction Grants Program authorizations, will help insure the integrity of the program and the protection of the public's investment in these wastewater treatment facilities.

Subsection (g) of section 16, paragraph (1), directs the Administrator to make a grant, from funds allotted to the State of California under section 205 of the Act, to the City of Avalon, California, for improvements to the publicly owned treatment works of that City.

Paragraph (2) of subsection (g) directs the Administrator to make a grant of $2,337,000 from funds allotted to the State of Ohio for fiscal year 1985 to the owners of the Rocky River Wastewater Treatment Plant in Rocky River, Ohio, for reimbursement of the owners for cost of construction of the plant.

The project at Rocky River, which also serves the communities of Bay Village, Westlake, and Fairview Park, was originally funded in 1968 under the Research and Development grant provisions of the Federal Water Pollution Control Act. The project was to use an advanced system of chemical coagulation and carbon filtration in order to provide the high level of treatment required for discharges into Lake Erie. Construction of the plant was initiated in October 1972. Its operation has been a total failure, and a new plant is now being constructed.

EPA has interpreted section 206 of the Act as not being applicable to the Rocky River plant because of the date on which construction was commenced and the fact that it was built with research and development grant assistance rather than construction grant assistance under the Pollution Control Act in existence prior to the 1972 amendments.

The Committee believes that the plant should be eligible for reimbursement and has accordingly provided for it in subsection (g).

Paragraph (3) of subsection (g) directs the Administrator to make grants from funds allotted to the State of Pennsylvania for fiscal year 1985 to Walker Township, Pennsylvania, for developing a collector system and connecting its wastewater treatment system into the Huntingdon Borough Pennsylvania Sewage Plant, and to Smithfield Township, Pennsylvania, for rehabilitating and extending its collector system.

Sewage disposal in Walker Township is presently accomplished by on-site methods, such as septic tanks and cesspools, and their appurtenances. Such methods are suitable in some parts of the Township in its present state of development. However, in areas with relatively high population density and certain subsurface conditions, there is dire need of public sewers in the immediate future. The project includes construction of a complete sanitary sewage collection system for the Village of McConnellstown and other population concentration areas of the townships (approximately 47,000 linear feet of sanitary sewers), two sewage pumping stations and force mains and a separate interceptor sewer from the Walker Township line to the Huntingdon Sewage Treatment Plants. The estimated cost of the project is $4.5 million. Huntingdon Borough is currently proceeding toward providing required secondary treatment without benefit of EPA construction grants funding. The Committee commends their efforts and wants it to be clear that the funding of the Walker Township project shall not place any construction grants regulations or requirements on Huntingdon Borough as it proceeds on its own.

The Smithfield Township sewer system rehabilitation and extension is in two parts. The first portion is the rehabilitation and replacement of approximately 9,000 linear feet of sewers, laterals, and drains. The estimated cost is $500,000. The second portion is construction of a sewer system to serve the McConnellstown Road area of Smithfield Township from Kelly's Corner to the Walker Township line. The project includes construction of approximately 6,000 linear feet of sewers and laterals. The estimated cost is $400,000.

Paragraph (4) of subsection (g) directs the Administrator to make a grant to the Elk Pinch Public Service District in West Virginia in amounts not exceeding $3 million for the cost of constructing the portion of the wastewater treatment plant of that district which is not yet constructed. As a condition to receiving this grant, the Elk Pinch Public Service District must agree to take necessary steps including litigation, to recover funds from parties against whom the District has claims for damages relating to the design and construction of the plant. Any amounts recovered are to be paid back to the Administrator and are to be reinstated to the allotment of West Virginia under the Construction Grants Program.

Paragraph (5) requires the Administer to make a grant of $250,000 to the City of Taylor Mill, Kentucky, for any necessary repairs and reconstruction of the City's publicly owned treatment works. The Taylor Mill grant is to be made from funds allotted under section 205 of the Federal Water Pollution Control Act for fiscal year 1985. The Committee has determined that special emphasis should be placed on addressing this wastewater facility need because 49 percent of the population in the area affected by these repairs is below the poverty level.

SECTION 17

Section 17 adds to Title II of the Federal Water Pollution Control Act a program for grants to States for establishment of water pollution control revolving funds.

Subsection (a) of new section 220 directs the Administrator to make a grant to each State for deposit in a Water Pollution Control Revolving Fund for providing assistance to municipalities and intermunicipal and interstate agencies for construction of treatment works as defined in section 212 of the Act which are publicly owned.

Subsection (b) provides that, before receiving a grant, the State must first deposit in the fund an amount equal to 20 percent of the amount allotted to the State for a fiscal year.

Each State must submit annually to the Administrator a certification that, upon completion of any project for treatment works for which financial assistance is made available under this section, discharges from such treatment works will meet all applicable requirements necessary to achieve applicable State and Federal water quality standards. The State must further certify that it will comply with all provisions of this section.

Each State is to establish a Water Pollution Control Revolving Fund to provide assistance under this section. The State shall deposit in such Revolving Fund any Federal funds allotted to that State under this section, any amounts received by the State for repayment of loans made by that State with funds in the Revolving Fund and any other funds, except for funds received under any other section of Title II, which the State wishes to deposit in its Revolving Fund. Construction grant funds cannot be deposited in the Revolving Fund.

Subsection (c) of new section 220 provides that a State may use amounts in the Revolving Fund only to make loans, loan guarantees, payments to reduce interest on loans and loan guarantees, bond interest subsidies, and bond guarantees to municipalities and intermunicipal and interstate agencies.

In addition, to the extent provided by State law, any State may issue revenue or general obligation bonds using amounts in the Revolving Fund as the source of revenue or security for the payment of interest and principal on the bonds. The proceeds of the sale of the bonds shall be deposited in the Revolving Fund. No municipality or intermunicipal or interstate agency shall receive a loan from the Revolving Fund unless such municipality or agency establishes a dedicated source of revenue for the repayment of the loan.

A State may provide assistance under this section to a municipality or intermunicipal or interstate agency with respect to the non-Federal share of the costs of a project for which such municipality or agency is receiving assistance from the Administrator under any other section of Title II.

A State may provide financial assistance from the Fund for any project which is on the State's priority list under section 216 of the Act, without regard to the ranking of the project on the list.

Subsection (d) of new section 220 provides that a State may make assistance available under this section from the Revolving Fund established by the State to finance the costs of facility planning and the preparation of plans, specifications and estimates for construction of publicly owned treatment works. If the grant recipient under this subsection ultimately receives a construction grant from the Environmental Protection Agency which includes reimbursement for non-Federal funds expended for planning and engineering, the recipient must promptly repay the loan to the extent of the allowance it receives from the Environmental Protection Agency.

Subsection (e) requires each State to annually make a full and complete report to the Administrator concerning the use of Federal funds made available under this section in such manner as the Administrator shall prescribe. Also, at least annually, the Administrator shall conduct, or require each State to have independently conducted, reviews and audits as may be deemed necessary and appropriate by the Administrator to carry out the objectives of this section. Audits of the use of Federal funds shall be conducted in accordance with the auditing procedures of the General Accounting Office.

Subsection (f) states that the provisions of Title II of the Federal Water Pollution Control Act shall not apply to financial assistance under new section 220 except to the extent specifically provided in new section 220. The purpose of this provision is to give States maximum flexibility in the use of the revolving fund.

Subsection (g) of new section 220 authorizes to be appropriated to carry out this section not to exceed $1,600,000,000 per fiscal year for each of the fiscal years 1985 through 1988. These funds are to be allotted by the Administrator in accordance with the same table which provides for allotment of Construction Grant funds. Sums allotted to a State for a fiscal year shall remain available for a grant to such State for the fiscal year for which authorized and for the following fiscal year as well. Any funds granted to a State for a fiscal year under this section which are not utilized by such State for any of the purposes of this section during such fiscal year and the following fiscal year shall be repaid to the Administrator for reallotment among the other States.

The revolving fund was intentionally developed to provide maximum flexibility to the States. The Committee believes this program should be maintained primarily as a State-controlled effort. The Committee will, however, exercise its oversight responsibilities to assure that the States manage the program to optimize the benefits to localities in their efforts to meet the requirements of the Federal Water Pollution Control Act.

Many communities on State priority lists for construction grants funding are too low on the lists to receive grants. Others may not receive the grants as quickly as they are prepared to go forward. The revolving fund is intended to provide a complementary system to the Construction Grants Program. The fund can be used for a project anywhere on the priority list and can be used in combination with grant funds. The $1.6 billion authorization over four years will provide a series of permanent funds among the States totalling $6.4 billion nationwide.

The suggestion of a loan or similar fund as an adjunct to or in lieu of the construction grants program has been discussed for several years. The Committee received substantial testimony that was very helpful in designing this new proposal.

SECTION 18

Section 301(k) of the Act provides that, in the case of any facility which proposes to comply with the requirements of best available technology by replacing existing production capacity with an innovative production process, which will result in an effluent reduction significantly greater than that required by the otherwise applicable effluent limitation or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable limitation, the Administrator may establish a compliance date no later than July 1, 1987—three years later than the final compliance date otherwise provided in the Act. Section 18 amends this provision, changing the compliance date from July 1, 1987, to a date two years after the date for compliance with the effluent limitation which is otherwise applicable.

In the period since the 1977 Amendments, there have been delays in final promulgation of effluent guidelines. This is in large part what has led to extension of the compliance deadlines in Section 4 of H.R. 3282. There is still potential for the kinds of innovative processes envisioned in the 1977 Amendments. For this reason, the 301(k) innovative technology extension is continued and is to be no later than two years after the date for compliance with effluent limitations otherwise applicable.

SECTION 19

This section adds a new subsection (n) to section 301 of the Federal Water Pollution Control Act concerning remining operations. It provides that, in the case of any coal remining operation, effluent limitations under the Act shall apply only to that portion of the discharge from the remining operation which exceeds the discharge from the site of the operation occurring immediately before the beginning of the remining operation. The term "coal remining operation" is defined to mean any coal mining operation which begins after the date of enactment of H.R. 3282 at a site at which coal mining was conducted before the date of enactment which was not, at the time the earlier mining was conducted, subject to the requirements of Title V of the Surface Mining Control and Reclamation Act of 1977.

At the time of the passage of the Surface Mining Control and Reclamation Act (SMCRA), an estimated 1.5 million acres of land had be disturbed by coal mining, and over 11,500 miles of streams polluted by sediment or acidity from surface or undergound mines. The abandoned mined lands program authorized by SMCRA established a fund to reclaim these abandoned sites where there is no continuing reclamation responsibility under State or Federal law. The program is funded by a reclamation fee levied on coal operators of 35 cents per ton on surface mined coal and 15 cents per ton on underground mined coal. Fee collection began in 1978 and will extend through 1992.

It is estimated that reclamation of 100 percent of coal related abandoned mine land problems would require expenditures of about $12 billion in constant 1983 dollars. However, published estimates of the cost to rehabilitate lands affected by past coal mining activities have exceeded $30 billion. The current program will result in the collection of approximately $3 billion and will resolve approximately 10 percent of the national problem through the use of State and Tribal share funds (50 percent of total collections). Expenditure of all money generated from both share (State/Tribal and Federal) would result in something less than 20 percent of the problem being resolved.

Estimates indicate that approximately 40–45 percent of these lands contain additional recoverable reserves that today can be mined with economic benefits. The intent of section 19 is to provide a limited incentive to remine abandoned coal mining sites through a very limited exclusion of discharge of pollutants occurring at the abandoned sites from effluent limitations established pursuant to the Federal Water Pollution Control Act. In the absence of remining, these discharges would continue in view of the limited resources available for reclamation of abandoned mines. Remining, however, would be subject to the requirements of the Surface Mining Control and Reclamation Act, which would result in reclamation of the site.

There are a number of provisions in the Surface Mining Act and regulations designed to protect the quality of water in areas where surface coal mining operations are being conducted. The Act reflects the understanding that there is likely to be some temporary disruption to water quality and quantity during the actual mining process. The operator, whether proposing a new or remining operation, is required to submit in his permit application a determination of the probable hydrologic consequences of the operation on surface and groundwater quantity and quality. This will be based on baseline hydrologic, geologic and other information collected as part of the permit application. The baseline hydrologic data will be collected for a minimum of six months prior to mining but sufficient to show seasonal variations in quantity and quality. It will address acid forming and potentially toxic materials which could contaminate surface or groundwater. The regulatory authority must then perform a cumulative hydrologic impact assessment based upon previous and predicted mining operations. In addition, there are numerous other performance standards to ensure proper reclamation and protection of public health and safety.

Because reclamation techniques require some form of regrading, surface hydrology in most cases would improve from controlling the quantity and direction of flow. Quality of surface flow is enhanced through reclamation because many potential point-source discharges of poor quality water would be eliminated through filling, grading, and revegetation. These beneficial impacts to surface hydrology typically range from minor to significant, depending on site conditions, and are of long duration.

The exclusion from the applicability of effluent limitations applies only to the discharges occurring at an abandoned mine prior to the commencement of remining. The type, amount and nature of these discharges are expected to be determined in collection of baseline data connected with the permit application process under the Surface Mining Control and Reclamation Act. For any remining operations not covered by that Act, a similar process of gathering baseline data is to be followed.

Any additional, or different, discharges from the remining operation are subject to effluent limitations under the Federal Water Pollution Control Act. If, for example, the remining results in a reduction of the pre-existing discharges, this reduction is not subtracted from the discharges associated with remining in determining how much of the discharges are excluded from the effluent limitations. These limitations apply not only to additional discharges associated with the remining operatoin, but also to any discharges which are different, in terms of location, source, amount, concentration, and the like, from those occurring at the abandoned site, including any increase in concentration of pollutants in pre-existing discharges resulting from remining. Also, any discharges associated with pumping out water from mines preparatory to or as part of remining would be subject to the effluent limitations.

SECTION 20

Section 304(a)(1) of the Act directs the Administrator to develop and publish criteria for water quality accurately reflecting the latest scientific knowledge on the kind and extent of all identifiable effects on health and welfare. Section 20 amends this provision by adding the requirement that, in developing, publishing and revising criteria, the Administrator shall consider, among other things, the effects on the ecosystem of water hardness, pH, chemical and physical interactions, persistence of pollutants and the long-term effects of pollutants, sedimentation from chemical reaction of pollutants, the absorptive properties of sediments, resuspension, and bio-uptake.

Subsection (b) of section 20 adds the requirement that in the development of new or revised criteria with respect to a pollutant, whenever the Administrator determines that a well-founded and significant difference of opinion exists as to the latest scientific and research knowledge on the matters referred to in the section, the Administrator shall publish a description of this difference of opinion along with the publication of the criteria.

Subsection (b) also provides that new or revised criteria should be established so as to provide an ample margin of safety to protect human health and fish and wildlife resources.

SECTION 21

Subsection (a) of this section adds a new paragraph (5), including two subparagraphs, to section 307(b) of the Federal Water Pollution Control Act. Section 307(b) requires the Administrator to promulgate national categorical pretreatment standards for the control of pollutants introduced by industrial dischargers into publicly owned treatment works.

New subparagraph (5)(A) authorizes the Administrator to establish a single compliance date for any source—also referred to as any indirect discharger—which is subject to two or more pretreatment standards that have been promulgated before the date of enactment of H.R. 3282. The single compliance date shall apply to all of the pretreatment standards applicable to the source and promulgated before the date of enactment, shall apply only to these already-promulgated and applicable standards, shall only be granted to sources which make application for the single compliance data, and shall not be later than one year after the earliest applicable pretreatment standard compliance date or not later than the date for compliance specified in the last promulgated pretreatment standard applicable to the source, whichever comes first. The Administrator shall not establish a single compliance date unless the applicant demonstrates to the satisfaction of the Administrator that the establishment of a single compliance date will result in compliance by the applicant with all such applicable standards earlier than would be the case without the single date.

New subparagraph (5)(B) directs the Administrator to consider at least three factors in determining whether a single compliance date should be established and, if so, what the specific date should be. These factors are the extent to which the technology which is the basis for one of the applicable pretreatment standards is inconsistent with the technology which is the basis for another of the applicable pretreatment standards; the extent to which the later pretreatment standards require technology in addition to that required by the earlier standards, regardless of whether the later technology is or is not inconsistent with that required by the earlier standards; and the extent to which achieving compliance with the later standards at an earlier date is practicable based on engineering, design and construction considerations.

The Federal Water Pollution Control Act requires the Administrator to establish mandatory national pretreatment standards to prevent the discharge of any pollutant into publicly owned treatment works which interferes with, passes through, or is otherwise incompatible with the works. The Act specifies a time for compliance not to exceed three years from the date of promulgation of a standard and focuses on the control of toxic pollutants for the 65 classes of industrial and commercial discharges in specific industrial categories determined to be the most significant sources of 126 priority toxic pollutants.

The Administrator has implemented these requirements through the promulgation of General Pretreatment Regulations, which establish standards common to all industries, and industry-specific Categorical Pretreatment Standards for the 25 specific industrial categories determined to be the most significant sources of toxic pollutants. This approach requires an industrial discharger which combines wastestreams and is subject to multiple categorical pretreatment standards to comply sequentially with each categorical standard as it is promulgated. Such industrial dischargers are commonly referred to as integrated facilities.

Under the scheme of the Act and the Agency's implementing regulations, integrated facilities must meet more than one deadline for compliance, since more than one pretreatment standard applies to these facilities and since the Administrator has promulgated the categorical pretreatment standards with different compliance dates for each standard. The multiple deadlines which these facilities are subject to can result in the initial construction by the integrated indirect discharger of a treatment plant which later is either inadequate, necessitating upgrading, or overdesigned, resulting in excess treatment capacity and wasted resources. In either event, a substantial amount of monies for pretreatment facilities could be misspent due to the "moving target" compliance dates.

This inherent problem faced by integrated facilities has been exacerbated by the complexity of the regulations promulgated by the Administrator to implement the Act's pretreatment requirements; the controversy and legal challenges, brought by industry and environmental organizations alike, related to the Agency's pretreatment regulations; and the fact that the effective date for a portion of the General Pretreatment Regulations necessary for integrated facilities to apply and comply with the categorical standards was indefinitely deferred administratively and then retroactively reinstated by the Third Circuit Court more than fifteen months later, substantially shortening the compliance time available to many integrated facilities.

The Committee has responded to this situation under subsection (a) of section 21 by providing integrated facilities with an alternative to sequential compliance with each applicable categorical standard as it is promulgated. Subsection (a) authorizes the Administrator to establish a single compliance date for an integrated facility, at the request of the facility, for all pretreatment standards promulgated prior to enactment of this provision and applicable to the facility. Under subsection (a), at least the earliest of an integrated facility's categorical pretreatment standard compliance dates would be deferred and the latest would be accelerated, both to a single date, resulting in total compliance for the facility at an earlier date than would be the case in the absence of a single compliance date. Where the first and last pretreatment standards have compliance deadlines one year or less apart, the single compliance date established by the Administrator must be earlier than the date of compliance with the last standard required.

While subsection (a) sets forth three factors which the Administrator must consider in determining whether a single compliance date should be established for an integrated facility, the Committee does not intend for the Administrator to limit his inquiry to the three enumerated factors. Instead, factors such as the amount of time necessary to achieve compliance by changing processes to eliminate toxic pollutants, the amount of time an applicant has had to comply since issuance of pretreatment standards, and the extent to which an applicant has made good faith efforts to come into compliance as quickly as possible may also be relevant and should be considered, as appropriate, by the Administrator in making his determinations under this provision.

Subsection (b) of section 21 extends the date of compliance with the electroplating pretreatment standards to December 31, 1984. In addition, the Administrator is authorized to further extend the date of compliance with these standards for any indirect discharger who submits a report to the Administrator not later than December 31, 1984, which report complies with Section 403.12 of Title 40 of the *Code of Federal Regulations* in all respects except the compliance schedule, and which contains a compliance schedule adequate to achieve compliance with the electroplating pretreatment standards not later than July 31, 1985.

Current law, by regulation, requires non-integrated facilities covered by the electroplating categorical pretreatment standards to comply with those standards by April 27, 1984; integrated facilities must be in compliance by June 30, 1984. Subsection (b) extends the compliance date for both types of facilities to December 31, 1984, with the possibility of an additional extension for individual facilities which make the showing required by the subsection.

The Committee recognized, in drafting this subsection, that a significant number of the indirect dischargers subject to the electroplating point source category will be unable to comply with the pretreatment standards requirements by the April and June dates. While exact figures are unavailable, it has been established that as many as 80 percent of the more than ten thousand affected dischargers will not be in compliance after June 30, 1984. It is also recognized that many of these dischargers can achieve compliance before, or not later than, December 31, 1984, or will not require the full amount of the possible additional extension to July 31, 1985. The Committee anticipates that expeditious and orderly progress towards obtaining compliance with the electroplating pretreatment standards by the regulated sector and towards implementing the pretreatment program by the Agency will be made.

The Committee notes that subsections (a) and (b) must be read together. The compliance date for electroplating pretreatment standards in the case of an integrated facility is December 31, 1984, or whatever later date is established by the Administrator pursuant to an application made by the facility under subsection (b).

The Administrator, in determining whether to grant an extension beyond December 31, 1984, for compliance with the electroplating standards, is expected to take into account the reasonable time required for compliance by a facility, and the presence or lack of good faith efforts on the part of the facility to comply with the standards. The Committee emphasizes that dischargers subject to the electroplating standards are not eligible to receive a compliance date extension beyond December 31, 1984 unless the complete report required by subsection (b) is submitted to the Administrator prior to December 31, 1984. Any such direct discharger who contemplates the possibility of applying for a compliance date extension beyond December 31, 1984 should begin immediately if it has not already done so to develop the information required by the subsection.

Subsection (c) of section 21 directs the Administrator to increase the number of employees in the Agency in order to effectively implement the Federal Water Pollution Control Act's pretreatment requirements.

The Committee believes that insufficient Agency resources are being dedicated to regulatory and implementation activities relating to the National Pretreatment Program. This program has been surrounded by controversy since 1972 and it is only now on the verge of being implemented nationwide. Of the approximately 1675 publicly-owned treatment works required to develop pretreatment programs under the Federal regulations, only 371 had approved programs as of the beginning of fiscal year 1984. During fiscal year 1983, only 306 programs were approved. If the Agency's goal of having all 1675 programs approved and functioning by the end of fiscal year 1985 is to be achieved—a goal the Committee shares and would even like to see exceeded—far more resources than are currently being budgeted for this effort will be required.

The Committee believes that EPA resources dedicated to pretreatment program approval and enforcement activities should be substantially increased compared to levels assumed in the proposed budget. The Agency has estimated that it will take fifteen days to review each POTW application for pretreatment program approval. Based on the number of approvals already made, the number projected to be made before the end of FY 85, and the level of resources currently being proposed for pretreatment program efforts, the Agency will barely be able to meet its stated goal of having all 1675 programs approved by September 30, 1985. However, to achieve this level of program approvals, the Agency will have to dedicate all of its currently budgeted resources to the effort, having virtually none available for reviewing State program delegation applications (40 days required per application), reviewing baseline monitoring reports for compliance with EPA regulations (4–8 days per report), processing removal credit applications (20 days per application), providing necessary support functions for enforcement actions (10–20 days per enforcement action against an industrial user and the same for each action against a POTW), monitoring a POTW's implementation of its program (15 days per POTW), and monitoring a State's implementation of its pretreatment program (10 days), to list just a number of pretreatment program functions that must also be performed. The Committee is convinced for these and other reasons that substantial additional revenues will be required for the pretreatment program in FY 85 and beyond.

Subsection (d) of section 21 amends section 307 of the Federal Water Pollution Control Act to authorize the owner or operator of a publicly owned treatment works to grant up to a two-year extension for compliance with a categorical pretreatment standard to an indirect discharger that intends to comply with such applicable standard by using an innovative treatment system that meets the criteria specified in section 301(k) of the Act, if (1) the Administrator determines that the innovative system has the potential for industry-wide application and the action will not cause the publicly owned treatment works to violate its NPDES permit, and (2) the Administrator or a State having an approved pretreatment program concurs with the proposed action of the owner or operator of the publicly owned treatment works.

Section 301(k) of the Federal Water Pollution Control Act currently authorizes an extension of the date for compliance with certain best available technology treatment requirements for direct dischargers where the applicable innovative technology or process installed by the direct discharger has potential for industry-wide application and achieves either significantly greater pollutant reduction compared to that required by the applicable effluent limitations or achieves the required reduction at significantly lower cost. Subsection (d) is intended to provide the same kind of innovative technology deadline extension for indirect dischargers as is provided in section 301(k) of the Federal Water Pollution Control Act, as amended by section 18 of H.R. 3282, for direct dischargers. In this way, the Committee intends to provide an additional incentive to the development of new and better techniques to control the discharge of pollutants.

The purpose of this amendment is to encourage the development of innovative processes and control technologies. It is not in any way intended to provide a means for delay in compliance with the deadlines established in the Act. The Committee thus understands "innovative system" to be one which has not yet been demonstrated on a commercial scale under operating conditions in any industry; is proposed for application in a very few plants; and is unlikely to be installed without this encouragement. Additionally, this provision is not intended to allow delays by other companies awaiting the results of the demonstration.

SECTION 22

This section amends section 309 of the Federal Water Pollution Control Act to provide that dischargers or individuals who knowingly violate or cause the violation of certain of the Act's requirements will be subject to criminal penalties of up to $50,000 per day and/or imprisonment for up to two years.

Under section 22, punishment by fine of between $2,500 and $25,000 per day, or imprisonment for up to a year, or both, is required with respect to (1) any person who negligently violates sections 301, 302, 306, 307, 308, 318, or 405 of the Federal Water Pollution Control Act, or any permit condition or limitation implementing any of these sections in an NPDES permit, or any requirement imposed in an approved pretreatment program, or any requirement in a dredge and fill permit under seciton 404 of the Act; or (2) any person who negligently introduces into a sewer system or a publicly owned treatment works any pollutant or hazardous substance which causes or may reasonably be anticipated to cause personal injury or property damage or which causes the treatment works to be in violation of its NPDES permit requirements. Second and subsequent violations shall be punished by a fine of not more than $50,000 per day, or by imprisonment of up to two years, or both.

Section 22 also requires punishment by fine of between $5,000 and $50,000 per day, or imprisonment for up to two years, or both, for (1) any person who knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of the Act, or any permit condition or limitation implementing any of these sections in an NPDES permit, or any requirement imposed in an approved pretreatment program, or any requirement in a dredge and fill permit under section 404 of the Act; or (2) any person who knowingly introduces into a sewer system or a public owned treatment works any pollutant or hazardous substance which causes or may reasonably be anticipated to cause personal injury or property damage or which cause the treatment works to be in violation of its NPDES permit requirements. As with negligent violations, for subsequent knowing violations, the maximum punishment which may be imposed for these knowing violations is twice that pertaining to the inital violation.

The section provides, for both of these negligent or knowing violations and affirmative defense that the introduction of any pollutant or hazardous substance into the sewer system or treatment works was in compliance with all applicable Federal, State, and local requirements governing the introduction.

Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act or who knowingly falsifies, tampers with, or renders inaccaurate any monitoring device or method required to be maintained under the Act shall upon conviction be punished by a fine of up to $10,000 per day or imprisonment for up to two years, or both. Second and subsequent convictions shall be punished by a fine of up to $20,000 per day of violation, or by imprisonment of up to four years, or both.

For the purpose of section 22, the term "person" means any responsible corporate officer in addition to the definition of the term in section 502(5) of the Federal Water Pollution Control Act. The term "hazardous substance" means any substance designated pursuant to section 311 of the Federal Water Pollution Control Act; any element, compound, mixture, solution, or substance designated under section 102 of the Comprehesive Environmental Response, Compensation, and Liability Act of 1980; certain hazardous wastes having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act; any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act; and any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.

Presently the Federal Water Pollution Control Act has no provision that deals with knowing violations of major statutory of regulatory requirements. Section 22 is intended to be used primarily to address intentional violations of the Act occurring on a regular basis over an extended period of time that result in significant harm to public health or the environment. The section is intended to provide for imposition of serve penalties for such actions.

SECTION 23

This section authorizes the assessment of civil penalties for violations of the Act. Whenever on the basis of any information available to him the Administrator finds that any person is in violation of sections 301, 302, 306, 307, 318, or 405 of the Act or is in violation of any permit condition or limitation implementing any of these sections in a permit issued under section 402 of the Act, he may, after consultation with the State in which the violation occurs, assess a civil penalty of not more than $10,000 per day of violation, except that the penalty shall not exceed a total of $75,000. The Secretary of the Army is given similar authority in connection with permits issued by him under section 404 of the Act, which relates to the discharge of dredged or fill material.

A civil penalty is assessed under this provision by the Administrator or the Secretary, as the case may be, by an order made on the record after opportunity for a hearing. Before issuing such an order, the Administrator or the Secretary is required to give written notice to the person to be assessed the civil penalty of the proposal to issue such an order and is required to provide the person with an opportunity to request, within 15 days, a hearing on the order.

In determining the amount of the civil penalty the Administrator or the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, the ability to pay, the effect on the ability to continue to do business, any history of prior violations, the degree of culpability, economic savings resulting from the violation and such other matters as justice may require.

The Administrator or the Secretary may compromise, modify, or remit, with or without conditons, any civil penalty which may be imposed under this provision.

Any person who requested a hearing with regard to the assessment of his civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of the order with the United States Court of Appeals for the District of Columbia Circuit or for any other Circuit in which such person resides or transacts business. Such a petiton may only be filed within the 30-day period beginning on the date the order making the assessment was issued.

If any person fails to pay an assessment of his civil penalty, after the order making the assessment has become a final order, and where the person does not file a petition for judicial review of the order, or after the court has entered a final judgment in favor of the Secretary or the Administrator, the Attorney General shall recover the amount assessed in an action brought in any appropriate District Court of the United States.

The Administrator and the Secretary are given the authority to issue subpoenas in connection with hearings under this provision and may request the Attorney General to bring an action to enforce any subpoena.

Any violation with respect to which any civil penalty is imposed under this provision is not subject to a civil penalty under section 309(d) or section 311(b) of the Federal Water Pollution Control Act.

When a State has proceeded with an enforcement action relating to a violation with respect to which the Administrator or the Secretary is authorized to assess a civil penalty under this provison, the Administrator and the Secretary are not authorized to take any action under this subsection if the State demonstrates that the State-imposed penalty is appropriate.

SECTION 24

This section contains a number of amendments to section 314 of the Federal Water Pollution Control Act, which establishes a grant assistance program to improve the water quality of lakes.

Subsection (a) of section 24 deletes the reference to "fresh water" in section 314(a)(1) in order to make the Clean Lakes Program applicable to saline, as well as fresh water, lakes. The Committee believes that lakes which are saline, both inland and those connected to bays, estuaries or other saline waters where salinity from those sources enters the lake, should not be excluded from the water quality improvement program for lakes under section 314.

Subsection (b) of section 29 consists of technical amendments to existing law to reflect the amendments made by section 24.

Subsection (c) adds a number of new subsections to section 314. New subsection (d) provides that the Administrator shall make grants to States for priority projects for control of nonpoint sources of pollution which are contributing to the degradation of water quality in lakes. The amount granted to the State for such a project shall not exceed 70 percent of the cost of the project. There is authorized to be appropriated not to exceed $100 million per year for the Fiscal Years 1985 through 1989 for these purposes.

New subsection (e) provides that any State may prepare and submit to the Administrator for approval a survey of water quality deterioration in lakes and other waters in the State which has resulted from high acidity and methods and procedures which may be applied to lakes and other waters in the State to restore water quality insofar as such quality has deteriorated because of high acidity. The Administrator shall make grants to States to carry out these methods and procedures, as approved by the Administrator. The amount granted to any State for any fiscal year shall not exceed 80 percent of the funds expended by the State in that year for carrying out approved methods and procedures. Such methods may include, but are not limited to, innovative methods of neutralizing and restoring buffering capacity of lakes and other waters that have become so acidic as to endanger game fish species, and methods of removing from lakes and other bodies of water toxic metals and other toxic substances mobilized by high acidity. The Administrator shall provide for an equitable distribution of sums among States with approved methods and procedures, with the distribution to be based on the relative need of each State for the restoration of water quality which has deteriorated as a result of high acidity. The amount of any grant to a State under this subsection is to be in addition to, and not in lieu of, any other Federally-financed assistance. To carry out new subsection (e) there is authorized to be appropriated $25 million per fiscal year for each of the fiscal years 1985 through 1989.

New subsection (f) directs the Administrator to submit annually to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works a report on the status and trend of water quality in lakes in the United States, including, but not limited to, the nature and extent of pollution loading from point and nonpoint sources and the extent to which the use of lakes is impaired as a result of such pollution, particularly with respect to toxic pollution.

New subsection (g) directs the Administrator to study, in cooperation with the State of Texas, water quality problems in Lake Houston, Texas, and undertake such control measures as determined necessary to improve water quality. The study will include, but not be limited to, evaluating the feasibility of regional or consolidated waste treatment facilities and developing recommendations for cost-effective control of pollutants entering the Lake Houston watershed. A report is submitted to the Committee on Public Works and Transportation of the House and the Committee on Environment and Public Works of the Senate.

Lake Houston is a 12,000 acre lake located in the northeast section of Houston, Texas. The lake provides about 40 percent of the drinking water for the City of Houston. It is also used by thousands of residents of the Houston area for a wide range of recreational activities. At present, there is great concern that high fecal coliform counts indicates a potential serious health hazard. Given the key role played by Lake Houston in the area, the Committee believes priority action is warranted.

There has been extensive development in the vicinity of Lake Houston and a large number of very small treatment plants have been put in place in the watershed. Most of these treat less than 1 million gallons per day. Overloading, poor performance, or lack of proper operation and maintenance of these small plants may be significant factors in the water quality problems being experienced at Lake Houston. The Committee is directing that these and other factors be studied and measures taken to eliminate water quality problems. One approach for consideration is consolidating the smaller treatment plants into larger, more effective sewage treatment systems.

New subsection (h) directs the Administrator, in cooperation with the Secretary of the Army, and in consultation with State and local agencies, to conduct a one-year study of Beaver Lake, Arkansas, and then undertake a demonstration project at Beaver Lake to determine the effectiveness of measures identified in the study. The study is to find means to optimize achievement of the purposes for which Beaver Dam was constructed while preserving and enhancing the quality of the reservoir's water. Following the demonstration project, the Administrator shall submit a report on the study and the project, along with recommendations for further measures to improve the water quality of Beaver lake. This report will be submitted to the Committee on Public Works and Transportation of the House and the Committee on Environment and Public Works of the Senate. To carry out this subsection, funds appropriated under subsections (c), (d) and (e) of section 314 of the Federal Water Pollution Control Act are available.

Beaver Lake is on the White River in northwestern Arkansas, in the Ozark highlands. Beaver Dam, behind which the lake is impounded, was completed by the U.S. Army Corps of Engineers in 1965 and impounds nearly 2 million acre-feet of storage. It is operated in conjunction with other lakes in the White River basin to prevent flood damages down river. It also serves as an important source of hydroelectric power and water supply. In addition, there are eleven parks around the lake, providing substantial recreational opportunity. A high level of water quality is needed to maintain the varied uses of Beaver Lake. The comprehensive, one-year study followed by a through demonstration project, will provide the opportunity for improvements in the water quality of the lake.

New subsection (i) directs the Administrator to undertake a demonstration project for the removal of silt, stumps and other obstructions from Greenwood Lake and Belcher Creek, New Jersey. Upon completion of the demonstration project, the Administrator is to submit a report, along with recommendations for further measures to improve the water quality of Greenwood Lake and Belcher Creek, to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works. There is authorized to be appropriated $10 million to carry out this subsection.

New subsection (j) directs the Administrator to undertake a demonstration project for the removal of silt and stumps from, and the control of pollution from nonpoint sources in, Deal Lake, Monmouth County, New Jersey. Upon completion of the demonstration project, the Administrator is to submit a report on the project, along with recommendations for further measures to improve the water quality of Deal Lake, to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works. There is authorized to be appropriated $8 million to carry out this subsection.

New subsection (k) directs the Administrator to undertake a demonstration project for the restoration of Alcyon Lake in New Jersey including removal and disposal of contaminated sediments in the Lake. Upon completion of the project, a report is to be submitted to the House Committee on Public Works and Transportation and the Senate Environment and Public Works Committee, together with recommendations for further cleanup measures.

SECTION 25

Section 402(b)(1)(B) of the Federal Water Pollution Control Act currently provides that permits for the discharge of pollutants are to be for fixed terms not exceeding five years.

Subsection (a) of section 25 amends this provision to provide that permits are for fixed terms not to exceed ten years, except in the case of a permit which modifies any requirement of the Act's sections 301(c), (g), (h), or (m) of the Federal Water Pollution Control Act—relating to extensions of compliance dates for direct dischargers where innovative technology is involved, modifications of compliance dates for pollutants other than toxic pollutants, modifications of technology requirements where an ocean outfall is involved and effluent limitations for certain pulp mills—and except in any case in which the State determines that the applicant has not consistently complied with any permit held by the applicant. In such excepted cases, permits shall be issued for fixed terms not exceeding five years. In carrying out this provision, the Administrator should consider, among other things, the frequency and significance of any instances of noncompliance by the permittee.

Subsection (a)(2) requires that permits must be modified promptly to insure compliance with any new or revised toxic pollutant effluent limitation under section 307(a) of the Federal Water Pollution Control Act, where such limitation is stricter than the corresponding limitation in the permit or where the new or revised limitation controls a pollutant not controlled in the permit.

The burden placed upon the Agency and the States by virtue of the numerous permits that must be issued or renewed each year has, among other things, led to extended delays in the permitting process. In order to help relieve these burdens and to expedite the process for the Agency, States, and permittees alike, section 25(a) authorizes the issuance of certain permits for terms of up to ten years.

The Agency and the States are issuing most permits for a second time. Since initial permit issuance, a great deal of familiarity and experience has been gained both with the permitting process and with specific permits and permittees. In many cases, this justifies an extended permit term. However, the Committee recognizes that for some permits the ten year term may be inappropriate. Specifically, for those permits issued pursuant to the waiver or modification provisions of section 301(c), (g), (h), or (m), a five year maximum permit term is established.

In addition, nothing is this provision infringes on the Agency's ability to establish shorter terms where the Agency deems it appropriate. Given the wide variety of permits and recognizing that the Agency is just beginning to issue many major permits with toxic limitations for the first time, it is understood that EPA will need the flexibility to set maximum permit terms of less than ten years for some dischargers.

Subsection (b) of section 25 of the bill provides that the Administrator shall not require a permit under section 402 or directly or indirectly require any State to require such a permit for discharges of stormwater run-off which (1) are from mining operations or oil or gas exploration, production, processing, or treatment operations, (2) are composed entirely of flows from conveyances or systems of conveyances used for collecting and conveying precipitation run-off; and (3) are not contaminated with process wastes, overburden, raw materials, toxic pollutants above background levels, spilled product, oil, grease, or hazardous substances in excess of reportable quantities as determined by the Administrator.

The subsection was developed by the Committee in recognition of the fact that there are numerous situations in the mining and oil and gas industries where stormwater is channeled around plants and operations through a series of ditches and similar devices in order to prevent pollution contamination of the stormwater. Many of these stormwater run-off devices are voluntary means of pollution control. For example, many mining operations located in mountainous and snow-packed areas collect run-off around the mine sites to keep such water from coming into contact with and being contaminated by process water or materials. The Committee believes that, to avoid penalizing operators for using good management practices designed to prevent or minimize pollution and for making expenditures to prevent stormwater run-off contamination, uncontaminated stormwater diversion devices should not be regulated under the permit scheme of the Act.

Subsection (c) amends section 402 of the Federal Water Pollution Control Act by adding new subsections (m) and (n). New subsection (m) provides that, in issuing a permit to a publicly owned treatment works, the Administrator shall not require additional pretreatment by any indirect discharge of conventional pollutants introduced into the treatment works as a substitute for inadequate pollution removal by the treatment works due to design or operation problems for which the treatment works is responsible. Indirect discharges into the works must still comply with all applicable pretreatment standards promulgated under the Federal Water Pollution Control Act. Nothing in this subsection affects the Administrator's authority under sections 307 and 309 of the Act, affects

State and local authority under section 307(b)(1) (pretreatment programs) or section 510 (state authority to establish limitations on discharges of pollutants), relieves the treatment works from its obligations to meet requirements of the Act, or otherwise precludes the treatment works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit.

When a publicly owned treatment works is failing to meet its permit limits due in whole or in part to a failure by the treatment works in its responsibilities, the Administrator shall not require pretreatment of conventional pollutants by indirect discharges to remedy that problem. This provision simply recognizes that in such circumstances the burden of correcting the problem lies with the publicly owned treatment works itself through adjustment of its facilities or operation. The language of this provision makes clear, however, that discharges of conventional wastes must be in compliance with all applicable pretreatment limitations and prohibitions. In addition, this subsection is not designed to interfere with EPA's enforcement authorities, State and local pretreatment authorities, or a municipality's responsibilities and options to treat or require pretreatment in order to comply with its permit requirements.

New subsection (n) allows partial delegation to the States of the Act's NPDES program. Under this provision, the Governor of a State may submit and the Administrator may approve a partial permit program for point source discharges into the navigable waters of the State where the State's partial permit program covers, at a minimum, either administration of a major category of the discharges into the State's navigable waters or a major component of the State's NPDES permit program. With respect to a partial permit program covering administration of a major category of discharges, the Administrator is authorized to approve such a program if the program covers in a complete fashion all of the discharges under the jurisdiction of a department or agency of the State and if the Administrator determines that the partial program represents a significant and identifiable part of the State's NPDES program. With respect to a partial and phased permit program covering a major component of the State's NPDES program, the Administrator is authorized to approve such a program if the Administrator determines that the partial program represents a significant and identifiable part of the State's NPDES program and if the State submits and the Administrator approves a plan for the State to assume administration by phases of the remainder of the State's NPDES program within five years.

The Committee believes that authorizing partial and phased approval of State permit programs will greatly benefit efforts to increase individual States' NPDES program implementation activities. With phased approval, States will be able to gradually assume responsibility for portions of the NPDES program over a specified period of time leading to full administration of the program by the end of the specified period. This will be particularly helpful to States having resource or other constraints which currently preclude full administration but allow something less than that at this time. Other States will benefit from the provision's authorization for a State to assume permitting authority over one or more discharge categories representing a major part of the State's permit program. For example, States with jurisdiction over point source regulation split among two or more State agencies, could apply for and receive authority to implement the permit program for all categories of discharges under the jurisdiction of one or more of its agencies.

It is the Committee's understanding and intent that, under the language of new subsection 402(n), at least the States of Arkansas, Louisiana, New Mexico, Oklahoma, and Texas could qualify for partial NPDES program delegation.

Subsection (d) of section 25 of H.R. 3282 amends section 402(c) of the Federal Water Pollution Control Act to provide that a State may return or the Administrator may withdraw approval of delegated NPDES program responsibilities. In the case of an approved partial permit program covering administration of a major category of a State's point source discharges, the entire permit program related to that category and being administered by one of the State's department or agencies must be returned or withdrawn. Partial programs relating to other categories and being administered by other of the State's departments or agencies, if such is the case, may remain delegated. In the case of an approved partial and phased program covering administration of a major component of a State's NPDES program, any approved phased component must be returned or withdrawn.

Subsection (e) provides that, notwithstanding any other provision of law, the Administrator shall administer National Pollutant Discharge Elimination System (NPDES) permits for two pulp mills in Alaska according to the terms in the stipulated permits. The Administrator is to do this for a period not exceeding ten years from the date of enactment of H.R. 3282. In no event shall the Administrator require discharge standards to be less than those in effect on May 10, 1984. The two permits are NPDES permit No. AK000053-1 and NPDES permit No. AK000092-2.

Subsection (e) allows the existing permit situation to continue within the limits stated. This allows two Alaska pulp mills to discharge a higher level of Biochemical Oxygen Demand (BOD) than other mills in the United States. The Committee understands that the permits allow emissions of 75 pounds of BOD per ton of pulp produced, while the National Guideline limit is 46.8 pounds per ton of pulp produced.

SECTION 26

This section amends section 502(14) of the Federal Water Pollution Control Act to provide that the term "point source" of pollution does not include agricultural stormwater discharges.

SECTION 27

This section authorizes the Administrator to make a grant to the City of New York to install such additional facilities in, and make such modifications to, the Newtown Creek Sewage treatment plant as are necessary for the plant to provide secondary treatment. The Federal share of the project is 75 percent of the cost of installing such facilities and making such modifications. There is authorized to be appropriated such sums as may be necessary to carry out this section for fiscal years beginning after September 30, 1984, which shall be in addition to and not in lieu of any other amounts authorized to be appropriated under title II of the Federal Water Pollution Control Act.

SECTION 28

Subsection (a) of this section directs the Administrator, upon application of the City of San Diego and for purposes of protecting the City and surrounding areas, to make grants to San Diego for a project consisting of publicly owned treatment works to provide primary or more advanced treatment of (1) not less than 60 million gallons per day of municipal sewage and industrial wastes emanating from the City of Tijuana, Mexico, and (2) such amount of municipal sewage and industrial waste for the City of San Diego as may be necessary to meet the objectives of the Federal Water Pollution Control Act.

Subsection (b) provides that any treatment works funded under the section shall be constructed in accordance with plans developed by the City of San Diego and approved by the Administrator. Such plans shall be drawn to meet whatever construction standards would be applicable if the works were being constructed under the Federal Water Pollution Control Act's section 201 Construction Grants Program.

Subsection (c) requires the overall project authorized by section 33 to provide capacity to treat municipal sewage and industrial wastes for both of the cities of Tijuana and San Diego.

Subsection (d) provides that all of the provisions of the Federal Water Pollution Control Act which are applicable to construction grants made under subsection 201(g) of that Act shall also apply to any grant made under section 28 to provide treatment for the City of San Diego.

Under subsection (e), the Federal share of the cost to construct treatment works to treat pollutants emanating from Tijuana shall be at full Federal expense less any amounts received from the Government of Mexico. The Committee strongly intends that negotiations should proceed at the earliest possible time, and as a matter of high priority, to secure agreement with the Government of Mexico leading to an appropriate contribution from the Government of Mexico toward the project's construction, operation, and maintenance.

Subsection (f) authorizes the Administrator, upon application of the City of San Diego, to issue an NPDES permit of limited duration which modifies the requirements of section 301(b)(1)(B) of the Federal Water Pollution Control Act to permit the discharge through an ocean outfall of effluent which has received primary or more advanced treatment—but less than secondary treatment—by facilities constructed with Federal assistance under the Water Quality Renewal Act of 1984.

Subsection (g) provides that, in the event the treatment works constructed under section 33 to treat Mexican sewage and waste has capacity which is no longer necessary to provide such treatment, any such capacity may be used to provide treatment for the City of San Diego.

Subsection (h) defines the terms "construction" and "treatment works" for purposes of section 28 in the same way as those terms are defined under section 212 of the Federal Water Pollution Control Act.

Subsection (i) authorizes the appropriation of such sums as may be necessary for fiscal year 1985 and beyond to make grants under the section.

Section 28 is intended to address one of the most serious water pollution problems currently being experienced in the United States.

The City of Tijuana, located at the border of California and Baja California Norte, Mexico, presently generates approximately 20 million gallons of sewage per day. In the future, as the City's rapidly expanding population continues to grow beyond the current one million inhabitant level, and as running water is provided to more of the city's homes, the amount of sewage emanating from the city will also greatly increase.

Tijuana has neither a reliable sewage collection system nor a fully operating wastewater treatment facility. Consequently, discharges of untreated and partially treated sewage from Tijuana to the ocean at Playas de Tijuana, in addition to sewage seepages across the border, have continually contributed to the contamination of U.S. beaches and territory in the Tijuana River Valley region. This contamination has not only had an adverse economic impact on the U.S. Communities in the region, it also poses a severe health hazard to citizens on both sides of the border. In August of 1983, for example, more than 6 million gallons per day of Tijuana sewage were flowing into the ocean near Imperial Beach, California. This forced the closure of Imperial, Silver Strand, and Coronado Beaches where water samples indicated the contamination to be as high as 100 times the level considered safe. Unfortunately, this was not an isolated incident. Beaches north of the border were quarantined for 307 days in 1980, 219 days in 1982, and 309 days in 1983 because of pollution emanating from Tijuana.

Section 28 provides authorization for the construction of wastewater treatment works having such capacity as may be determined necessary by the City of San Diego with concurrence of the Administrator to provide for the long-term sewage treatment needs of both the City of Tijuana, Mexico, and the City of San Diego. Further, section 28 may permit initial or interim phases of the sewage treatment works to provide less than primary treatment, provided, however, that such phases shall be compatible with and convertible to a treatment facility with primary or more advanced treatment.

With regard to treatment works authorized for sewage and industrial waste for the City of Tijuana, Mexico, it is fully expected that the Administrator will expeditiously process any application by the City of San Diego for a permit, under section 402 of the Clean Water Act, to modify requirements for secondary treatment in order to discharge through an ocean outfall.

SECTION 29

This section provides that, for purposes of protecting the economy, public health, environment, and surface and ground water of the community of Naco, Arizona, which are in danger and are being polluted by raw sewage emanating from the community of Naco, Sonora, Mexico, upon application of the City of Naco, Arizona, the Administrator of the Environmental Protection Agency shall make grants to such City for construction of a project consisting of a publicly owned treatment works to provide primary or more advanced treatment of not less than 150,000 gallons of untreated sewage emanating from the City of Naco, Sonora, Mexico.

Any treatment works for which a grant is made under this section shall be constructed in accordance with plans developed by the City of Naco, Arizona, and approved by the Administrator to meet the construction standards which would be applicable if such treatment works were being constructed under section 201 of the Federal Water Pollution Control Act.

The Federal share of the cost of construction of the treatment works shall be at full Federal expense less any costs paid by the Government of Mexico as a result of agreements negotiated with the United States.

There is authorized to be appropriated to the Administrator $2,000,000 to make grants under this section for fiscal years beginning after September 30, 1984.

Since early 1977 the United States has negotiated with Mexico regarding immediate and long-term solutions to the problems of chronic sewage discharges into Greenbush Draw from the Naco, Sonora, treatment facilities. The City of Bisbee and County of Cochise have supplied equipment and manpower for repairs on many occasions, with funding from the International Boundary and Water Commission. However, because of frequent damage from heavy rains, inadequate maintenance of facilities, increased sewage load, and the strained economic conditions in Naco, Sonora, the frequency of sewage overflow from the treatment ponds and manholes in Naco, Sonora has increased in the last three years.

The groundwater production facilities for Bisbee, Arizona which are owned and operated by Arizona Water Company, are located in Greenbush Draw, approximately one mile downstream from the international boundary. The sewage discharge from Naco, Sonora threatens to contaminate the aquifer which supplies all of the City of Bisbee's drinking water. The sewage load at Naco, Sonora is currently 132,000 gallons per day; this load was flowing unchecked into Greenbush Draw in December 1983. As an emergency measure to prevent this sewage from reaching the Arizona Water Company well field, a diversion and impoundment were constructed on private property in Naco, Arizona again using funding from the International Boundary and Water Commission. This holding pond is unacceptable as a long-term measure and is not adequate to retain sewage flows in the event of heavy seasonal rains which are typical of southern Arizona nor to eliminate the threat of groundwater contamination.

SECTION 30

Subsection (a) of this section provides that after March 15, 1986, the City of New York shall not discharge raw sewage into navigable waters in an amount which is greater for any 30-day period than an amount equal to 30 times the average daily discharge of raw sewage by the City of New York during the 12-month period preceding March 15, 1986, as determined by the Administrator of the Environmental Protection Agency, except as provided in subsection (b) of this section.

Subsection (b) provides that, in the event of any significant interruption in the operation of a wastewater treatment plant which is operated by the City of New York, the Administrator of the Environmental Protection Agency may waive the limitations of subsection (a), but only to such extent and for such limited period of time as may be reasonably necessary for such City to resume such operation.

Significant interruptions include situations which are beyond the control of the City of New York, such as accidents or acts of God causing damage to the plants or to construction equipment.

The Administrator of the Environmental Protection Agency is directed to undertake measures, including modifications of schedules of compliance, to reduce and eliminate at the earliest practicable date, the discharge of raw sewage by the City of New York taking into account any increase in the authorization for grants for construction of treatment works made by H.R. 3282 and standards and practices which are necessary for the attainment of that water quality which assures protection of public water supplies, protection of the public health, and the protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife, and allows recreational activities in and on the water.

This section in no way modifies the obligations of the City of New York to achieve secondary treatment as required by the Federal Water Pollution Control Act and any consent decrees entered into by the Environmental Protection Agency, the State of New York, the City of New York, and other parties, or any compliance orders or schedules imposed by the Administrator. It does not permit the indefinite discharge of raw sewage at the March 15, 1986 level. Rather, it places a limitation on the amount of discharge of raw sewage which may occur as the City continues its efforts to achieve full secondary treatment of all of its sewage.

SECTION 31

This section allows the Okolona Sewer Construction District in Jefferson County, Kentucky, to continue to operate its wastewater treatment works—without being required to use any other wastewater treatment facility—until completion of the West County Wastewater Treatment Plant in Jefferson County. The section also requires the Administrator to issue a National Pollutant Discharge Elimination System permit to effectuate the purpose of the section.

This provision is necessary to prevent the Okolona Sewer Construction District from being forced to connect with and discharge into an existing interceptor line leading to a publicly owned treatment works which discharges into the Ohio River. Not only would such a connection lead to unnecessary additional user charges for a community comprising a high percentage of retirees living on fixed and relatively low incomes, but it would also result in Okolona's secondary-treatment-quality effluent being diverted to an existing wastewater treatment plant which is itself incapable of treating incoming wastes to secondary levels. The Committee believes that requiring Okolona to make such a connection would be economically wasteful and directs the Administrator to allow the District's plant to remain in operation with the necessary NPDES permit until construction is completed on a new regional wastewater treatment plant.

SECTION 32

This section authorizes and directs the Administrator of the Environmental Protection Agency to make grants to the Metropolitan District Commission, Massachusetts, for a project to undertake emergency improvements at the Deer Island Waste Water Treatment Plant in Boston, Massachusetts. The Federal share of the project shall not exceed 75 percent of the cost of carrying out the improvements. There is authorized to be appropriated to carry out this section $10,000,000 per fiscal year for each of the fiscal years 1985, 1986 and 1987.

SECTION 33

This section provides that, notwithstanding any provision of the Federal Water Pollution Control Act, the Administrator of the Environmental Protection Agency shall pay, to the extent provided in appropriation Acts, in the same proportion as the Federal share of other project costs, all expenses for the relocation of facilities for the distribution of natural gas with respect to the entire wastewater treatment works known as the Oakwood Beach (EPA Grant Number 360932) and Red Hook (EPA Grant Number 360394) projects, New York. There is authorized to be appropriated for fiscal years beginning after September 30, 1984, not to exceed $9,000,000 to carry out the section.

SECTION 34

This section provides that, in order to protect the public health, environment, and water quality endangered by the destruction of the Chippewa Township, Pennsylvania, sewage treatment facility and the resultant raw sewage discharge into Brady's Run, Pennsylvania, the Administrator of the Environmental Protection Agency is directed to undertake such measures as may be necessary (including but not limited to removal of accumulated raw sewage) to restore the quality of the waters adversely affected by such discharge.

The explosion that destroyed the Chippewa sewage treatment facility led to the discharge of millions of gallons of raw sewage into Brady's Run and the one mile section of the Beaver River, from where it enters the Ohio River upstream to Brady's Run.

Section 34 requires the Administrator to remove the sewage deposited in this reach of the Beaver River.

SECTION 35

This section directs the Administrator to study the feasibility and desirability of eliminating the regulation of discharges of pollutants into the navigable waters in amounts which, in terms of volume, concentration, and type of pollutant, are not significant. A report, with recommendations, is to be submitted to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works within one year of the date of enactment of H.R. 3282.

SECTION 36

This section directs the Administrator of the Environmental Protection Agency to study the effectiveness on waste treatment of innovative and alternative waste water treatment processes and techniques which have been utilized in treatment works constructed under the Act. In conducting the study, the Administrator is to compile information, by State, on the types of such processes and techniques utilized and on the number of facilities constructed with such processes and techniques, and a description of such processes and techniques which have not performed to design standards. The Administrator must also determine which States have not obligated the full amount set aside for innovative and alternative facilities constructed with such processes and techniques and the reasons therefor. The Administrator is to submit a report on this study to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works not later than two years after the date of enactment, along with recommendations for providing more effective incentives for innovative and alternative wastewater treatment processes and techniques.

SECTION 37

Subsection (a) of this section directs the Administrator to study the water quality improvements which have been achieved by application of best available technology. The study must include an analysis of the effectiveness of, and the costs and benefits associated with, application of best available technology and must also include an analysis of methods of improving our Nation's water quality program and its effectiveness. Subsection (a) requires the Administrator, in analyzing methods of improving the water quality program, to study site-specific levels of treatment which will achieve the water quality goals of the Federal Water Pollution Control Act in a cost effective manner.

Subsection (b) requires the Administrator, within two years of the date of enactment of H.R. 3282, to submit a report on the results of the study, together with recommendations for improving the Nation's water quality program and it effectiveness, to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

SECTION 38

This section directs the Administrator to study the testing procedures for analysis of pollutants. The study shall include, but is not limited to, an analysis of the adequacy and standardization of testing procedures. In conducting the analysis of the standardization of such procedures, the Administrator is to consider the extent to which these procedures are consistent with comparable procedures established under other Federal laws. A report on the results of this study is to be submitted within one year, together with recommendations for modifying testing procedures, to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

Subsection (b) of section 38 directs the Administrator, biennially after the date of submission of the report on testing procedures, to conduct a state-of-the-art review of the testing procedures for the analysis of pollutants for the purpose of determining the adequacy and effectiveness of such procedures and, based on the results of such review, to submit to the Committees recommendations for modifying testing procedures to improve their effectiveness.

SECTION 39

This section directs the Administrator of the Environmental Protection Agency to conduct a study and make a report with recommendations concerning a number of pretreatment-related issues.

Subsection (a) directs the Administrator to study the adequacy of data on environmental impacts of toxic industrial pollutants discharged through publicly owned treatment works; the extent that secondary treatment by these treatment works removes toxic pollutants; the capability of publicly owned treatment works to grant pretreatment removal credits authorized under section 307(b)(1) of the Federal Water Pollution Control Act; possible alternative regulatory strategies for protecting the operations of publicly owned treatment works from industrial discharges, including an evaluation of how effective each strategy might be in achieving the goals of H.R. 3282 and the Federal Water Pollution Control Act, and, the adequacy under each of the strategies studied of Federal, State, and local resources to establish, implement, and enforce multiple pretreatment limits for toxic pollutants.

Subsection (b) requires the Administrator to submit a report on the study performed under subsection (a), along with recommendations for improving the effectiveness of pretreatment requirements, to the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works within two years of date of enactment of H.R. 3282.

Section 39 requires the Administrator to study the effectiveness of the National Pretreatment Program. This study is not intended to determine the need for pretreatment or in any way to delay ongoing program implementation. Rather, the study should be used to update and expand information available to the Agency on such matters as the impact on publicly owned treatment works of industrial discharges and the pollution removal effectiveness of publicly owned treatment works technology. In addition, the study should also be used to evaluate the effectiveness—both in terms of pollution removal and cost—of industrial pretreatment controls.

Section 39(a)(3) requires the Administrator to study the capability of publicly owned treatment works to revise pretreatment requirements under section 307(b)(1) of the Federal Water Pollution Control Act. The Committee intends that EPA focus particular attention on the extent to which EPA's pretreatment removal credits program is presently effectuating the Congressional intent behind section 307(b)(1). Congress added the credit system to the Act in 1977 because of its concern that EPA's categorical pretreatment standards could result in costly redundant treatment by industry and publicly owned treatment works. The Committee also intends that, in implementing section 39(a)(3), the Administrator shall examine the capability of publicly owned treatment works to establish and enforce requirements more stringent than or different from national categorical standards.

The Committee's reference in section 39(a)(4) to possible alternative regulatory strategies is meant to include, among other things, consideration of sludge quality in evaluating strategy effectiveness. Section 39(a)(5)'s reference to "adequacy of . . . resources" is meant to include evaluation of technical expertise and availability of analytical methods as well as financial and staffing level evaluations.

SECTION 40

This section provides that, in order to protect the Federal and other investment in treatment works, the Administrator shall conduct a study of the problem of the corrosive effects of sulfides in collection and treatment systems, the extent to which the uniform imposition of categorical pretreatment standards will exacerbate this problem, and the range of available options to deal with the effects.

The study required is to be conducted in consultation with the Los Angeles City and County sanitation agencies which have observed examples of corrosion, probably caused by sulfides. The Administrator shall submit a report on the results of the study, together with recommendations for measures to reduce the corrosion of treatment works, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate within one year of the date of enactment of H.R. 3282. There is authorized to be appropriated $2,000,000 to carry out this section for fiscal years beginning after September 30, 1984.

In recent years in Southern California, it has become apparent that sulfide corrosion of concrete sewers and wastewater treatment facilties is creating severe damages. The causes of sulfide corrosion of concrete structures include high strength sewage, high temperature, acidic wastewater, lack of aeration of sewage and low cleaning velocities in the sewer system. The climatic conditions in Southern California and the use of sanitary sewers which do not accept rainfall tend to promote conditions causing sulfide corrosion. The lack of rainfall to eliminate the periodic flushing and cleaning of the sewer slimes which create sulfides. In less desert-like climates this periodic flushing of sewers tends to reduce sewer corrosion problems.

The existence of sulfides in large concrete sewers throughout the Los Angeles basin results in the formation of sulfuric acid which corrodes the sewers and creates the potential for sewer collapse.

It is necessary to perform an extensive evaluation of the interactions of the many factors that may be causing sulfide corrosion of sewerage structures. The interrelated remedial effects of the periodic cleansing of concrete sewers, the effectiveness of adding chemicals that eliminate sewer slimes, the effect of in-sewer aeration of wastewater and other remedial measures need to be properly evaluated. This amendment will provide for funding for the Administrator to work cooperatively with the Los Angeles County sanitation agencies to develop methods to deal with this problem.

COMPLIANCE WITH CLAUSE 2(l) OF RULE XI OF THE RULES OF THE HOUSE OF REPRESENTATIVES

(1) With reference to clause 2(l)(3)(A) of rule XI of the House of Representatives, the Subcommittee on Investigations and Oversight did not hold hearings on the specific subject matter of the legislation.

That Subcommittee has, however, conducted investigations of the implementation of various aspects of the Federal Water Pollution control Program over the past several years, and has issued a number of reports on these matters.

The Subcommittee on Water Resources held hearings on the bill.

(2) With respect to clause 2(l)(3)(B) of rule XI of the House of Representatives, H.R. 3282, as reported, does not provide new budget authority or increase tax expenditures. Accordingly, a statement pursuant to section 308(a) of the Congressional Budget Act is not required.

(3) With reference to clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee has received a report prepared by the Congressional Budget Office under section 403 of the Congressional Budget Act. That report is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 6, 1984.

Hon. JAMES J. HOWARD,
Chairman, Committee on Public Works and Transportation,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 3282, the Water Quality Renewal Act of 1984, as ordered reported on June 6, 1984.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

RUDOLPH G. PENNER.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3282.
2. Bill title: Water Quality Renewal Act of 1984.
3. Bill status: As ordered reported by the House Committee on Public Works and Transportation, June 6, 1984.
4. Bill purpose: H.R. 3282 would reauthorize water quality programs administered by the Environmental Protection Agency (EPA), including the construction grants program. H.R. 3282 would

also authorize appropriations of $1.6 billion in each of the fiscal years 1985 through 1988 for 80 percent matching grants to aid states in establishing water pollution control revolving funds. The bill would authorize $150 million per year for nonpoint source control grants and would raise the authorization ceiling from $200 million to $500 million on grants to treat combined overflow into marine estuaries.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1984	1985	1986	1987	1988	1989
Estimated authorization level	621	6,169	6,460	6,460	6,450	775
Less: Existing authorization or appropriation	187	2,600				
Net additional authorization level	434	3,569	6,460	6,460	6,450	775
Estimated outlays	241	1,822	2,880	3,860	5,028	4,314

An additional $6.0 billion in outlays would occur after fiscal year 1989.

The costs of this bill fall within budget function 300.

BASIS OF ESTIMATE

The authorization levels are those specified in the bill, plus estimated 1985 authorizations totaling $260 million for the Newtown, Chippewa Township and San Diego projects. For purposes of this estimate, it is assumed that the full amounts authorized will be appropriated for each fiscal year. The 1984 authorization represents the difference between the amounts authorized in the bill for 1984 and appropriations to date for those programs with new 1984 authorizations. The 1984 authorization level also includes $21.5 million for specific projects authorized in Section 29, with no effective date specified. Outlays are estimated on the basis of historical spending patterns and information obtained from the EPA.

6. Estimated cost to State and local governments: CBO has not completed its estimate of the costs to state and local governments. This estimate will be transmitted separately at a later date.

7. Estimate comparison: None.

8. Previous CBO estimate: On May 21, 1984, CBO prepared a cost estimate for H.R. 3282, as ordered reported by the House Committee on Public Works and Transportation, May 10, 1984. That version of the bill contained provisions that were omitted in the version ordered reported on June 6, 1984.

9. Estimate prepared by Deb Reis.

10. Estimate approved by C. G. Nuckols for James L. Blum, Assistant Director for Budget Analysis.

(4) With reference to clause (2)(l)(3)(D) of rule XI of the Rules of House of Representatives, the Committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

(5) With reference to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the following information is provided:

The effect of carrying out H.R. 3282, as reported, should be negligible with respect to prices and costs.

COST OF LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires a statement of the estimated costs to the United States which would be incurred in carrying out H R. 3282, as reported, in Fiscal Year 1984, and each of the following five years. However, under paragraph (d) of clause 7 its provisions do not apply when the Committee has received a timely report from the Congressional Budget Office.

COMMITTEE ACTION AND VOTE

The Committee, in compliance with rule XI(2)(1)(2)(A) of the Rules of the House of Representative, reports favorably the bill H.R. 3282, as amended.

The Committee ordered the bill reported by voice vote.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL WATER POLLUTION CONTROL ACT

TITLE I—RESEARCH AND RELATED PROGRAMS

DECLARATION OF GOALS AND POLICY

SEC. 101. (a) The objective of this Act is to restore and maintain the chemical, physical, and biological integrity of the Nation's waters. In order to achieve this objective it is hereby declared that, consistent with the provisions of this Act—

(1) it is the national goal that the discharge of pollutants into the navigable waters be eliminated by 1985;

(2) it is the national goal that wherever attainable, an interim goal of water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water be achieved by July 1, 1983;

(3) it is the national policy that the discharge of toxic pollutants in toxic amounts be prohibited;

(4) it is the national policy that Federal financial assistance be provided to construct publicly owned waste treatment works;

(5) it is the national policy that areawide waste treatment management planning processes be developed and implemented to assure adequate control of sources of pollutants in each State; **[**and**]**

(6) it is the national policy that a major research and demonstration effort be made to develop technology necessary to

eliminate the discharge of pollutants into the navigable waters, waters of the contiguous zone, and the oceans[.]*; and*

(7) it is the national policy that plans for the control of nonpoint sources of pollution be developed and implemented in an expeditious manner so as to enable the goals of this Act to be met through the control of both point and nonpoint sources of pollution.

* * * * * * *

RESEARCH, INVESTIGATIONS, TRAINING, AND INFORMATION

SEC. 104. (a) * * *

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(h)*(1)* The Administrator is authorized to enter into contracts with, or make grants to, public or private agencies and organizations and individuals for (A) the purpose of developing and demonstrating new or improved methods for the prevention, removal, reduction, and elimination of pollution in lakes, including the undesirable effects of nutrients and vegetation, and (B) the construction of publicly owned research facilities for such purpose.

(2) The Administrator shall submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate not later than one year after the date of enactment of this paragraph a lake restoration guidance manual establishing procedures to guide future State and local efforts to improve water quality in lakes.

* * * * * * *

(u) There is authorized to be appropriated (1) not to exceed $100,000,000 per fiscal year for the fiscal year ending June 30, 1973, the fiscal year ending June 30, 1974, and the fiscal year ending June 30, 1975, and not to exceed $14,039,000 for the fiscal year ending September 30, 1980, and not to exceed $20,697,000 for the fiscal year ending September 30, 1981, and not to exceed $22,770,000 for the fiscal year ending September 30, 1982, *and not to exceed $22,770,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988,* for carrying out the provisions of this section, other than subsections (g) (1) and (2), (p), (r), and (t), except that such authorizations are not for any research, development, or demonstration activity pursuant to such provisions; (2) not to exceed $7,500,000 for fiscal years 1973, 1974, and 1975, $2,000,000 for fiscal year 1977, $3,000,000 for fiscal year 1978, $3,000,000 for fiscal year 1979, $3,000,000 for fiscal year 1980, $3,000,000 for fiscal year 1981, [and $3,000,000 for fiscal year 1982] *$3,000,000 for fiscal year 1982, and $3,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988,* for carrying out the provisions of subsection (g)(1); (3) not to exceed $2,500,000 for fiscal year 1973, 1974, and 1975, $1,000,000 for fiscal year 1977, $1,500,000 for fiscal year 1978, $1,500,000 for fiscal year 1979, $1,500,000 for fiscal year 1980, $1,500,000 for fiscal year 1981, [and $1,500,000 for fiscal year

1982] *$1,500,000 for fiscal year 1982, and $1,500,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988* for carrying out the provisions of subsection (g)(2); (4) not to exceed $10,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (p); (5) not to exceed $15,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (r); and (6) not to exceed $10,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, for carrying out the provisions of subsection (t).

* * * * * * *

GRANTS FOR POLLUTION CONTROL PROGRAMS

SEC. 106. (a) There are hereby authorized to be appropriated the following sums, to remain available until expended, to carry out the purposes of this section—

(1) $60,000,000 for the fiscal year ending June 30, 1973; and

(2) $75,000,000 for the fiscal year ending June 30, 1974 and the fiscal year ending June 30, 1975, $100,000,000 per fiscal year for the fiscal years 1977, 1978, 1979, and 1980, $75,000,000 per fiscal year for the fiscal years 1981 and 1982 , *and $75,000,000 per fiscal year for each of the fiscal years 1983, 1984, 1985, 1986, 1987, and 1988*;

for grants to States and to interstate agencies to assist them in administering programs for the prevention, reduction, and elimination of pollution, including enforcement directly or through apropriate State law enforcement officers or agencies.

* * * * * * *

DEFINITIONS AND AUTHORIZATIONS

SEC. 112. (a) * * *

* * * * * * *

(c) There are authorized to be appropriated $25,000,000 per fiscal year for the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975, $6,000,000 for the fiscal year ending September 30, 1977, $7,000,000 for the fiscal year ending September 30, 1978, $7,000,000 for the fiscal year ending September 30, 1979, $7,000,000 for the fiscal year ending September 30, 1980, $7,000,000 for the fiscal year ending September 30, 1981, [and $7,000,000 for the fiscal year ending September 30, 1982,] $7,000,000 for the fiscal year ending September 30, 1982, $7,000,000 for the fiscal year ending September 30, 1983, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1984, to carry out sections 109 through 112 of this Act.

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TITLE II—GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

PURPOSE

SEC. 201. (a) * * *

* * * * * * *

(g)(1) The Administrator is authorized to make grants to any State, municipality, or intermunicipal or interstate agency for the construction of publicly owned treatment works. On and after October 1, 1984, grants under this title shall be made only for projects for secondary treatment or more stringent treatment, or any cost effective alternative thereto, new interceptors and appurtenances, [and] *new collector sewers and appurtenances,* infiltration-in-flow correction[.], *and projects to address water quality problems due to impacts of discharges from combined storm water and sanitary sewer overflows.* Notwithstanding the preceding sentence, the Administrator may make grants on and after October 1, 1984, for any project within the definition set forth in section 212(2) of this Act, other than for a project referred to in the preceding sentence, except that not more than 20 per centum (as determined by the Governor of the State) of the amount allotted to a State under section 205 of this Act for any fiscal year shall be obligated in such State under authority of this sentence.

(n)(1) On and after October 1, 1984, upon the request of the Governor of an affected State, the Administrator is authorized to use funds available to such State under section 205 to address water quality problems due to the impacts of discharges from combined storm water and sanitary sewer overflows, which are not otherwise eligible under this subsection, where correction of such discharges is a major priority for such State.

(2) Beginning fiscal year 1983, the Administrator shall have available [$200,000,000] *$500,000,000* per fiscal year in addition to those funds authorized in section 207 of this Act to be utilized to address water quality problems of marine bays and estuaries subject to lower levels of water quality due to the impacts of discharges from combined storm water and sanitary sewer overflows from adjacent urban complexes, not otherwise eligible under this subsection. Such sums may be used as deemed appropriate by the Administrator as provided in paragraphs (1) and (2) of this subsection, upon the request of and demonstration of water quality benefits by the Governor of an affected State.

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FEDERAL SHARE

SEC. 202. (a)(1) The amount of any grant for treatment works made under this Act from funds authorized for any fiscal year beginning after June 30, 1971, *and ending before October 1, 1984,* shall be 75 per centum of the cost of construction thereof (as approved by the Administrator), and for any fiscal year beginning on or after October 1, 1984, shall be [55] *65* per centum of the cost of construction thereof (as approved by the Administrator), unless modified to a lower percentage rate uniform throughout a State by the Governor of that State with the concurrence of the Administrator. Within ninety days after the enactment of this sentence the Administrator shall issue guidelines for concurrence in any such modification, which shall provide for the consideration of the unobligated balance of sums allocated to the State under section 205 of this Act, the need for assistance under this title in such State, and the availability of State grant assistance to replace the Federal share reduced by such modification. The payment of any such reduced Federal share shall not constitute an obligation on the part of the United States or a claim on the part of any State or grantee to reimbursement for the portion of the Federal share reduced in any such State. Any grant (other than for reimbursement) made prior to the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 from any funds authorized for any fiscal year beginning after June 30, 1971, shall, upon the request of the applicant, be increased to the applicable percentage under this section. Notwithstanding the first sentence of this paragraph, in any case where a primary, secondary, or advanced waste treatment facility or its related interceptors or a project for infiltration-in-flow correction *or a project to address water quality problems due to impacts of discharges from combined storm water and sanitary sewer overflows* has received a grant for erection, building, acquisition, alteration, remodeling, improvement, extension, or correction before October 1, 1984, all segments and phases of such facility, interceptors, and project for infiltration-in-flow correction *and project to address such problems* shall be eligible for grants at 75 per centum of the cost of construction thereof. *Notwithstanding the first sentence of this paragraph, in the case of a project for which an application for a grant under this title has been made to the Administrator before October 1, 1984, and which project is under judicial injunction on such date prohibiting its construction, such project shall be eligible for grants at 75 per centum of the cost of construction thereof.*

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(3) In addition to any grant made pursuant to paragraph (2) of this subsection, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of any facilities constructed with a grant made pursuant to paragraph (2) if the Administrator finds that such facilities have not met design performance specifications unless such failure is attributable to negligence on the part of any person and if such failure has significantly increased capital or operating and maintenance expenditures. *In addition, the Administrator is authorized to make a grant to fund all of the costs of the modification or replacement of biodisc equipment (rotating biological contractors) in any publicly owned treatment works if the Administrator finds that such equipment has not met design performance specifications, unless such failure is attributable to negligence on the part of any person, and if such failure has significantly increased capital or operating and maintenance expenditures.*

* * * * * * *

PLANS, SPECIFICATIONS, ESTIMATES, AND PAYMENTS

SEC. 203. (a) Each applicant for a grant shall submit to the Administrator for his approval, plans, specifications, and estimates for each proposed project for the construction of treatment works for which a grant is applied for under section 201)g)(1) from funds allotted to the State under section 205 and which otherwise meets the requirements of this Act. The Administrator shall act upon such plans, specifications, and estimates as soon as practicable after the same have been submitted, and his approval of any such plans, specifications, and estimates shall be deemed a contractual obligation of the United States for the payment of its proportional contribution to such project. *Before taking final action on such plans, specifications, and estimates, the Administrator shall enter into a written agreement with the applicant which establishes and specifies which items of the proposed project are eligible for Federal payments under this section. The Administrator may not refuse to make payments for the Federal share of those costs of any item specified in such an agreement which are incurred on such project.* In the case of a treatment works that has an estimated total cost of $800,000 or less (as determined by the Administrator), and the population of the applicant municipality is twenty-five thousand or less (according to the most recent United States census), upon completion of an approved facility plan, a single grant may be awarded for the combined Federal share of the cost of preparing construction plans and specifications, and the building and erection of the treatment works.

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LIMITATIONS AND CONDITIONS

SEC. 204. (a) Before approving grants for any project for any treatment works under section 201(g)(1) the Administrator shall determine—

[(1) that such works are included in any applicable areawide waste treatment management plan developed under section 208 of this Act;

[(2) that such works are in conformity with any applicable State plan under section 303(e) of this Act;]

(1) that any required areawide waste treatment management plan under section 208 of this Act (A) is being implemented for such area and the proposed treatment works are included in such plan, or (B) is being developed for such area and reasonable progress is being made toward its implementation and the proposed treatment works will be included in such plan;

(2) that (A) the State in which the project is to be located (i) is implementing any required plan under section 303(e) of this Act and the proposed treatment works are in conformity with such plan, or (ii) is developing such a plan and the proposed treatment works will be in conformity with such plan, and (B) such State is in compliance with section 305(b) of this Act;

* * * * * * *

(b)(1) Notwithstanding any other provision of this title, the Administrator shall not approve any grant for any treatment works under section 201(g)(1) after March 1, 1973, unless he shall first have determined that the applicant (A) has adopted or will adopt a system of charges to assure that each recipient of waste treatment services within the applicant's jurisdiction, as determined by the Administrator, will pay its proportionate share (except as otherwise provided in this paragraph) of the costs of operation and maintenance (including replacement) of any waste treatment services provided by the applicant; (B) has legal, institutional, managerial, and financial capability to insure adequate construction, operation, and maintenance of treatment works throughout the applicant's jurisdiction, as determined by the Administrator. In any case where an applicant which, as of the date of enactment of this sentence, uses a system of dedicated ad valorem taxes and the Administrator determines that the applicant has a system of charges which results in the distribution of operation and maintenance costs for treatment works within the applicant's jurisdiction, to each user class, in proportion to the contribution to the total cost of operation and maintenance of such works by each user class (taking into account total waste water loading of such works, the constituent elements of the waste, and other appropriate factors), and such applicant is otherwise in compliance with clause (A) of this paragraph with respect to each industrial user, then such dedicated ad valorem tax system shall be deemed to be the user charge system meeting the requirements of clause (A) of this paragraph for the residential user class and such small non-residential user classes as defined by the Administrator. In defining small non-residential users, the Administrator shall consider the volume of wastes discharged into the treatment works by such users and the constituent elements of such wastes as well as such other factors as he deems appropriate. *A system of user charges which imposes a lower charge for low-income residential users (as defined by the Administrator) shall be deemed to be a user charge system meeting the requirements of clause (a) of this paragraph, if the Administrator determines that such system was adopted after public notice and hearing.*

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ALLOTMENT

SEC. 205. (a) * * *

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(c)(1) * * *

(2) Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1982, 1983, and 1985 shall be allotted for each such year by the Administrator not later than the tenth day which begins after the date of enactment of the Municipal Wastewater Treatment Construction Grant Amendments of 1981. *Sums authorized to be appropriated pursuant to section 207 for the fiscal years 1986, 1987, and 1988 shall be allotted for each year by the Administrator not later than the tenth day which begins after the date of enactment of the Water Quality Renewal Act of 1984.* Notwithstanding any other provision of law, sums authorized for the fiscal year

ending September 30, 1982, shall be allotted in accordance with table 3 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives. Sums authorized for the fiscal years ending September 30, 1983, September 30, 1984, [and September 30, 1985,] *September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988,* shall be allotted in accordance with the following table:

* * * * * * *

(c) For the fiscal years 1978, 1979, 1980, no State shall receive less than one-half of 1 per centum of the total allotment under subsection (c) of this section except that in the case of Guam, Virgin Islands, American Samoa, and the Trust Territories not more than [thirty-three one-hundreds] *two-thirds* of 1 per centum in the aggregate shall be allotted to all four of these jurisdictions. For the purpose of carrying out this subsection there are authorized to be appropriated, subject to such amounts as are provided in appropriation Acts, not to exceed $75,000,000 for each of fiscal years 1978, 1979, 1980, 1981, 1982, 1983, 1984, [and 1985] *1985, 1986, 1987, and 1988.* If for any fiscal year the amount appropriated under authority of this subsection is less than the amount necessary to carry out this subsection, the amount each State receives under this subsection for such year shall bear the same ratio to the amount such State would have received under this subsection in such year if the amount necessary to carry it out had been appropriated as the amount appropriated for such year bears to the amount necessary to carry out this subsection for such year.

* * * * * * *

(g)(1) The Administrator is authorized to reserve each fiscal year not to exceed 2 per centum of the amount authorized under section 207 of this title for purposes of the allotment made to each State under this section on or after October 1, 1977, except in the case of any fiscal year beginning on or after October 1, 1981, and ending before October 1, [1985,] *1988,* in which case the percentage authorized to be reserved shall not exceed 4 per centum, or $400,000 whichever amount is the greater. Sums so reserved shall be available for making grants to such State under paragraph (2) of this subsection for the same period as sums are available from such allotment under subsection (d) of this section, and any such grant shall be available for obligation only during such period. Any grant made from sums reserved under this subsection which has not been obligated by the end of the period for which available shall be added to the amount last allotted to such State under this section and shall be immediately available for obligation in the same manner and to the same extent as such last allotment. Sums authorized to be reserved by this paragraph shall be in addition to and not in lieu of any other funds which may be authorized to carry out this subsection.

* * * * * * *

(3) The Administrator shall reserve each fiscal year beginning after September 30, 1984, $900,000 from the sums available to the State of New York under this subsection for such fiscal year, $900,000 from the sums available to the State of New Jersey under

this subsection for such fiscal year, and $200,000 from the sums available to the State of Connecticut under this subsection for such fiscal year. Sums reserved under this paragraph shall be used by the Administrator to make a grant for each fiscal year to the Interstate Sanitation Commission established by such States by interstate compact to carry out the functions of such Commission under this Act.

(i) Not less than one-half of one per centum of funds allotted to a State for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, September 30, 1983, September 30, 1984, [and September 30, 1985,] *September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988,* under subsection (a) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works utilizing innovative processes and techniques pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the preceding sentence, a total of two per centum of the funds allotted to a State for each of the fiscal years ending September 30, 1979, and September 30, 1980, and 3 per centum of the funds allotted to a State for the fiscal year ending September 30, 1981, under subsection (a) of this section shall be expended only for increasing grants for construction of treatment works from 75 per centum to 85 per centum pursuant to section 202(a)(2) of this Act. Including the expenditures authorized by the first sentence of this subsection, a total (as determined by the Governor of the State) of not less than 4 per centum nor more than 7½ per centum of the funds allotted to such State for any fiscal year beginning after September 30, 1981, under subsection (c) of this section shall be expended only for increasing the Federal share of grants for construction of treatment works pursuant to section 202(a)(2) of this Act.

(j)(1) The Administrator shall reserve each fiscal year not to exceed pet centum of the sums allotted and available for obligation to each State under this section for each fiscal year beginning on or after October 1, 1981, or $100,000, whichever amount is the greater.

(2) Such sums shall be used by the Administrator to make grants to the States to carry out water quality management planning, including, but not limited to—

(A) identifying most cost effective and locally acceptable facility and non-point measures to meet and maintain water quality standards;

(B) developing an implementation plan to obtain State and local financial and regulatory commitments to implement measures developed under subparagraph (A);

(C) determining the nature, extent, and causes of water quality problems in various areas of the State and interstate region, and reporting on these annually; and

(D) determining those publicly owned treatment works which sho~~uld b~~e constructed with assistance under this title, in which areas and in what sequence, taking into account the relative degree of effluent reduction attained, the relative contributions to water quality of other point or nonpoint sources, and the consideration of alternatives to such construction, and implementing section 303(e) of this Act.

(3) In carrying out planning with grants made under paragraph (2) of this subsection, a State shall develop jointly with local, regional, and interstate entities, a plan for carrying out the program and give funding priority to such entities and designated or undersignated public comprehensive planning organizations to carry out the purposes of this subsection. *In giving such priority, the State shall allocate at least 50 percent of the amount granted to such State for a fiscal year under this subsection to regional and interstate public comprehensive planning organizations in such State, except in any fiscal year for which the Administrator and the Governor of such State determine jointly that allocation of at least 50 percent to such organizations will not substantially assist in achieving the goals of this Act.*

* * * * * * *

(l) One-quarter of one percent of any amount appropriated under section 207 of this Act for any fiscal year beginning after September 30, 1984, shall be reserved by the Administrator for carrying out investigations and audits authorized by this Act of projects for which funds are made available under this title.

* * * * * * *

AUTHORIZATION

SEC. 207. There is authorized to be appropriated to carry out this title, other than sections 206(e), 208, [and 209,] *, 209, and 220,* for the fiscal year ending June 30, 1973, not to exceed $5,000,000,000, for the fiscal year ending June 30, 1974, not to exceed $6,000,000,000, and for the fiscal year ending June 30, 1975, not to exceed $7,000,000,000, and, subject to such amounts as are provided in appropriation Acts for the fiscal year ending September 30, 1977, $1,000,000,000 for the fiscal year ending September 30, 1978, $4,500,000,000 and for the fiscal year ending September 30, 1979, September 30, 1980, not to exceed $5,000,000,000; for the fiscal years ending September 30, 1981, not to exceed $2,548,837,000; [and for the fiscal years ending September 30, 1982, September 30, 1983, September 30, 1984, and Sepbember 30, 1985, not to exceed $2,400,000,000 per fiscal year] *for the fiscal years ending September 30, 1982, and September 30, 1983, not to exceed $2,400,000,000 per fiscal year for the fiscal year ending Sseptebmr 30, 1984, not to exceed $2,400,000,000; for the fiscal year ending September 30, 1985, not to exceed $2,900,000,000; and for the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988, not to exceed $3,400,000,000 per fiscal year.*

AREAWIDE WASTE TREATMENT MANAGEMENT

SEC. 208. (a) * * *

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(f)(1) * * *

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(3) Each applicant for a grant under this subsection shall submit to the Administrator for his approval each proposal for which a

grant is applied for under this subsection. The Administrator shall act upon such proposal as soon as practicable after it has been submitted, and his approval of that proposal shall be deemed a contractual obligation of the United States for the payment of its contribution to such proposal, subject to such amounts as are provided in appropriation Acts. There is authorized to be appropriated to carry out this subsection not to exceed $50,000,000 for the fiscal year ending June 30, 1973, not to exceed $100,000,000 for the fiscal year ending June 30, 1974, and not to exceed $150,000,000 per fiscal year for the fiscal years ending June 30, 1975, September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, and not to exceed $100,000,000 per fiscal year for the fiscal years ending September 30, 1981, [and September 30, 1982.] *September 30, 1982, September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.*

* * * * * * *

(j)(1) * * *

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(9) There are hereby authorized to be appropriated to the Secretary of Agriculture $200,000,000 for fiscal year 1979, $400,000,000 for fiscal year 1980, $100,000,000 for fiscal year 1981, and $100,000,000 for fiscal year 1982, *and $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988,* to carry out this subsection. The program authorized under this subsection shall be in addition to, and not in substitution of, other programs in such area authorized by this or any other public law.

* * * * * * *

GRANTS TO STATES FOR REVOLVING FUNDS

SEC. 220. (a) The Administrator shall make a grant to each State of the funds allotted to such State under this section for any fiscal year for deposit in a Water Pollution Control Revolving Fund established by such state under subsection (b)(2) of this section, for providing assistance to municipalities and intermunicipal and interstate agencies for construction of treatment works (as defined in section 212 of this Act) which are publicly owned.

(b)(1) A grant shall not be made for a fiscal year to a State under this section unless the State has first deposited in the fund established by such State under this section an amount equal to 20 percent of the amount allotted to such State for such fiscal year.

(2) Each State shall submit to the Administrator annually a certification—

(A) that upon completion of any project for treatments works for which financial assistance is made available under this section, discharges from such treatment works will meet all applicable requirements necessary to achieve applicable State and Federal water quality standards; and

(B) that such State will comply with all provisions of this section.

(3) Each State shall establish a Water Pollution Control Revolving Fund to provide assistance under this section. Such State shall deposit in such fund any Federal funds allotted to such State under this section, any amounts received by such State for repayment of loans made by such State with amounts in such fund, any amounts required to be deposited in such fund under subsection (b)(1), and any additional funds (except for funds received under any other section of this title) which such State wishes to deposit in such fund.

(c)(1) A State may use amounts in the fund established by such State under this section only to make loans, loan guarantees, payments to reduce interest on loans and loan guarantees, bond interest subsidies, and bond guarantees to municipalities and intermunicipal and interstate agencies.

(2) In addition, to the extent provided by State law, any State may issue revenue or general obligation bonds using amounts in the fund established by such State under this section as a source of revenue or security for the payment of interest and principal on such bonds, if the proceeds of the sale of such bonds are deposited in such fund. No municipality or intermunicipal or interstate agency shall receive a loan from the fund unless such municipality or agency establishes a dedicated source of revenue for the repayment of such loan.

(3) A State may provide assistance under this section to a municipality or intermunicipal or interstate agency with respect to the non-Federal share of the costs of a project for which such municipality or agency is receiving assistance from the Administrator under any other section of this title.

(4) A State may provide financial assistance from the fund established by such State under this section for any project which is on the State's priority list under section 216 of this Act.

(d) Notwithstanding any other provision of this section, a State may make assistance available under this section from the fund established by such State under this section to finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works. If the recipient of a grant under section 201(g) of this Act for construction of treatment works receives an allowance under section 201(l)(1) for non-Federal funds expended for such planning and preparation and such recipient has received a loan under this first sentence of this subsection, such recipient shall promptly repay such loan to the extent of such allowance.

(e)(1) Each State shall annually make a full and complete report to the Administrator concerning the use of Federal funds made available under this section in such manner as the Administrator shall prescribe.

(2) The Administrator shall, at least on an annual basis, conduct or require each State to have independently conducted reviews and audits as may be deemed necessary or appropriate by the Administrator to carry out the objectives of this section. Audits of the use of Federal funds shall be conducted in accordance with the auditing procedures of the General Accounting Office.

(f) The provisions of this title shall not apply to financial assistance under this section, except to the extent provided in this section.

(g)(1) There is authorized to be appropriated to carry out this section not to exceed $1,600,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.

(2) Sums authorized to be appropriated to carry out this section for any fiscal year shall be allotted by the Administrator in the same manner and in accordance with the same table as if such funds were authorized to be appropriated under section 207 of this Act for such fiscal year. Sums allotted to a State for a fiscal year shall remain available for a grant to such State for the fiscal year for which authorized and for the following fiscal year. Any funds granted to a State for a fiscal year under this section which are not utilized by such State for any of the purposes of this section during such fiscal year and the following fiscal year shall be repaid to the Administrator for reallotment among the other States.

TITLE III—STANDARDS AND ENFORCEMENT

EFFLUENT LIMITATIONS

SEC. 301. (a) Except as in compliance with this section and sections 302, 306, 307, 318, 402, and 404 of this Act, the discharge of any pollutant by any person shall be unlawful.

(b) In order to carry out the objective of this Act there shall be achieved—

(1)(A)* * *

(2)(A) * * *

* * * * * * *

[(C) not later than July 1, 1984, with respect to all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives compliance with effluent limitations in accordance with subparagraph (A) of this paragraph;]

(C) for all toxic pollutants referred to in table 1 of Committee Print Numbered 95-30 of the Committee on Public Works and Transportation of the House of Representatives compliance with effluent limitations in accordance with subparagraph (A) of this paragraph as expeditiously as possible, but in no case later than three years and six months after the date such limitations are established;

(D) for all toxic pollutants listed under paragraph (1) of subsection (a) of section 307 of this Act which are not referred to in subparagraph (C) of this paragraph compliance with effluent limitation in accordance with subparagraph (A) of this paragraph [not later than three years after the date such limitations are estabished] *as expeditiously as possible, but in no case later than three years and six months after the date such limitations are established*;

(E) not later than July 1, [1984,] *1987,* effluent limitations for categories and classes of point sources, other than publicly owned treatment works, which in the case of pollutants identified pursuant to section 304(a)(4) of this Act shall require application of the best conventional pollutant control technology as determined in accordance with regulations issued by the Administrator pursuant to section 304(b)(4) of this Act; and

[(F) for all pollutants (other than those subject to subparagraphs (C), (D), or (E) of this paragraph) compliance with effluent limitations in accordance with subparagraph (A) of this paragraph not later than 3 years after the date such limitations are established, or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987.]

(F) for all pollutants (other than those subject to subparagraph (C), (D), or (E) of this paragraph) compliance with effluent limitations in accordance with subparagraph (A) of this paragraph as expeditiously as possible, but in no case later than three years and six months after the date such limitations are established.

* * * * * * *

(h) The Administrator, with the concurrence of the State, may issue a permit under section 402 which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from a publicly owned treatment works into marine waters, if the applicant demonstrates to the satisfaction of the Administrator that—

(1) there is an applicable water quality standard specific to the pollutant for which the modification is requested, which has been identified under section 304(a)(6) of this Act;

(2) such modified requirements will not interfere with the attainment or maintenance of that water quality which assures protection of public water supplies and the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife, and allows recreational activities, in and on the water;

(3) the applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable;

(4) such modified requirements will not result in any additional requirements on any other point or nonpoint source;

(5) all applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced;

(6) to the extent practicable, the applicant has established a schedule of activities designed to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works;

(7) there will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit.

[For the purposes of this subsection the phrase "the discharge of any pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone, or into saline estuarine waters where there is strong tidal movement and other hydrological and geological characteristics which the Administrator determines necessary to allow compliance with paragraph (2) of this subsection, and section 101(a)(2) of this Act.] *For the purposes of this subsection, the phrase "the discharge of any* *pollutant into marine waters" refers to a discharge into deep waters of the territorial sea or the waters of the contiguous zone.* A municipality which applies secondary treatment shall be eligible to receive a permit pursuant to this subsection which modifies the requirements of subsection (b)(1)(B) of this section with respect to the discharge of any pollutant from any treatment works owned by such municipality into marine waters. No permit issued under this subsection shall authorize the discharge of sewage sludge into marine waters.

* * * * * * *

(k) In the case of any facility subject to a permit under section 402 which proposes to comply with the requirements of subsection (b)(2)(A) of this section by replacing existing production capacity with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to such facility and moves toward the national goal of eliminating the discharge of all pollutants, or with the installation of an innovative control technique that has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent limitation and moves toward the national goal of eliminating the discharge of all pollutants, or by achieving the required reduction with an innovative system that has the potential for significantly lower costs than the systems which have been determined by the Administrator to be economically achievable, the Administrator (or the State with an approved program under section 402, in consultation with the Administrator) may establish a date for compliance under subsection (b)(2)(A) of this section no later than [July 1, 1987,] *two years after the date for compliance with such effluent limitation which is otherwise applicable under such subsection,* if it is also determined that such innovative system has the potential for industrywide application.

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(n)(1) Notwithstanding any other provision of this Act, in the case of any coal remining operation, effluent limitations under this Act shall apply only to that portion of the discharge from such operation which exceeds the discharge from the site of such operation immediately before the beginning of such operation.

(2) For purposes of this subsection, the term "coal remining operation" means any coal mining operation which begins after the date of enactment of this subsection at a site at which coal mining was conducted before such date which was not, at the time such mining was conducted, subject to the requirements of title V of the Surface Mining Control and Reclamation Act of 1977.

* * * * * * *

INFORMATION AND GUIDELINES

SEC. 304. (a)(1) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall develop and publish, within one year after the date of enactment of this title (and from time to time thereafter revise) criteria for water quality accurately reflecting the latest scientific knowledge (A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including ground water; (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes; and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters. *In developing, publishing, and revising criteria under this paragraph after the date of enactment of this sentence, the Administrator shall consider, among other things, the effects on the ecosystem of (i) water hardness, (ii) pH, (iii) chemical and physical interactions, (iv) persistence of pollutants and the long-term effects of pollutants, (v) sedimentation from chemical reaction of pollutants, (vi) the absorptive properties of sediments, (vii) resuspension, and (viii) bio-uptake. New or revised criteria under this paragraph should be established so as to provide an ample margin of safety to protect human health and fish and wildlife resources. Whenever, in developing new or revised criteria under this paragraph with respect to a pollutant, the Administrator determines that a well-founded and significant difference of opinion exists as to the latest scientific and research knowledge on the matters referred to in the preceding sentence, the Administrator shall publish a description of such difference of opinion along with the publication of such criteria.*

* * * * * * *

(k)(1) The Administrator shall enter into agreements with the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior, and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, to provide for the maximum utilization of other Federal laws and programs for the purpose of achieving and maintaining water quality through appropriate implementation of plans approved under section 208 *and 319* of this Act.

(2) The Administrator is authorized to transfer to the Secretary of Agriculture, the Secretary of the Army, and the Secretary of the Interior and the heads of such other departments, agencies, and instrumentalities of the United States as the Administrator determines, any funds appropriated under paragraph (3) of this subsection to supplement funds otherwise appropriated to programs authorized pursuant to any agreement under paragraph (1).

(3) There is authorized to be appropriated to carry out the provisions of this subsection, $100,000,000 per fiscal year for the fiscal years 1979 through [1983.] *1988.*

(l)(1) Not later than one year after the date of enactment of this subsection, the Administrator, in cooperation with the States and after notice and opportunity for public comment, shall publish in the Federal Register a list of all navigable waters in each State for which the Administrator does not expect the applicable standard

under section 303 of this Act will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a). For each segment of the navigable waters included on such list, the Administrator shall determine the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source. At a minimum, the Administrator shall consider for listing under this subsection any navigable waters for which any person submits a petition to the Administrator for listing not later than 120 days after the date of enactment of this subsection.

(2) Not later than one year after the date of publication of the list required by paragraph (1) of this subsection, the Administrator, in cooperation with the States, shall issue proposed regulations setting forth, for each listed segment of the navigable waters, an individual control strategy. Each individual control strategy shall produce a reduction in the discharge of toxic pollutants from point sources identified by the Administrator under paragraph (1) through the establishment of effluent limitations under section 302 of this Act and water quality standards under section 303(c)(4)(B) of this Act, which reduction is sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than three years after the date of promulgation of the final strategy. Not later than 180 days after issuing the proposed regulations, the Administrator shall promulgate each individual control strategy as a final regulation.

(3) The Administrator shall implement each individual control strategy promulgated under paragraph (2) by modifying or requiring the modification of permits under section 402 of this Act.

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TOXIC AND PRETREATMENT EFFLUENT STANDARDS

SEC. 307. (a)(1) * * *

(b)(1)

(5)(A) Upon the request of any source which is subject to two or more pretreatment standards which are promulgated under this subsection before the date of enactment of this paragraph and for which more than one compliance date is prescribed, the Administrator may establish a single compliance date for all such standards in accordance with this paragraph. Such a single compliance date shall be not later than one year after the first of such compliance dates or not later than the last of such compliance dates, whichever first occurs. The Administrator shall not establish a single compliance date under this paragraph unless the applicant demonstrates to the satisfaction of the Administrator that the establishment of a single compliance date will result in compliance by the applicant with all such standards earlier than would be the case in the absence of such single date.

(B) In determining whether a single compliance date should be established under this paragraph and in determining what that date should be, the Administrator shall consider, among other things (i)

the extent to which the technology which is the basis for one of the applicable pretreatment standards is inconsistent with the technology which is the basis for another of the applicable pretreatment standards, (ii) the extent to which the later pretreatment standards require additional technology, whether or not such technology is inconsistent with the technology which is the basis for one or more of the earlier pretreatment standards, and (iii) the extent to which achieving compliance with the later standards at an earlier date is practicable based on engineering, design, and construction factors.

* * * * * * *

(e) In the case of any new or existing facility that proposes to comply with the pretreatment standards of subsection (b) of this section by applying an innovative system that meets the requirements of section 301(k) of this Act, the owner or operator of the publicly owned treatment works receiving the treated effluent from such facility may establish a date for compliance with the applicable pretreatment standard not later than two years after the date for compliance with such applicable standard (1) if the Administrator determines that (A) the innovative system has the potential for industrywide application, and (B) the action will not cause the publicly owned treatment works to be in violation of its permit under section 402, and (2) if the Administrator (or the State, in any case in which the State has a pretreatment program approved by the Administrator) concurs with the proposed action of the owner or operator of such treatment works under this subsection.

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FEDERAL ENFORCEMENT

SEC. 309. (a)(1) * * *

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⟦(c)(1) Any person who willfully or negligently violates section 301, 302, 306, 307, or 308 of this Act, or any permit condition or limitation implementing any of such actions in a permit issued under section 402 of this Act by the Administrator or by a State, or in a permit issued under section 404 of this Act by a State, shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If the conviction is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment for not more than two years, or by both.

⟦(2) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or by both.

[(3) For the purposes of this subsection, the term "person" shall mean, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.]

(c)(1) Any person who—

(A) negligently violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army, acting through the Chief of Engineers, or by a State; or

(B) negligently introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which causes or may reasonably be anticipated to cause personal injury or property damage or which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $2,500 nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $50,000 per day of violation, or by imprisonment of not more than two years, or by both.

(2) Any person who—

(A) knowingly violates section 301, 302, 306, 307, 308, 318, or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator or by a State, or any requirement imposed in a pretreatment program approved under section 402(b)(8) of this Act or in a permit issued under section 404 of this Act by the Secretary of the Army, acting through the Chief of Engineers, or by a State; or

(B) knowingly introduces into a sewer system or into a publicly owned treatment works any pollutant or hazardous substance which causes or may reasonably be anticipated to cause personal injury or property damage or which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under section 402 of this Act by the Administrator or a State;

shall be punished by a fine of not less than $5,000 nor more than $50,000 per day of violation, or by imprisonment for not more than two years, or both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $100,000 per day of violation, or by imprisonment of not more than four years, or by both.

(3) It shall be an affirmative defense under paragraphs (1)(B) and (2)(B) of this subsection that the introduction of any pollutant or hazardous substance into a sewer system or a publicly owned treatment works was in compliance with all applicable Federal, State, and local requirements which govern the introduction of a pollutant

or hazardous substance into a sewer or publicly owned treatment works.

(4) Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this Act, shall upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than $20,000 per day of violation, or by imprisonment of not more than four years, or by both.

(5) For the purpose of this subsection, the term "person" means, in addition to the definition contained in section 502(5) of this Act, any responsible corporate officer.

(6) For the purpose of this subsection, the term "hazardous substance" means (A) any substance designated pursuant to section 311(b)(2)(A) of this Act, (B) any element, compound, mixture, solution, or substance designated pursuant to section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (C) any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act (but not including any waste the regulation of which under the Solid Waste Disposal Act has been suspended by Act of Congress), (D) any toxic pollutant listed under section 307(a) of this Act, and (E) any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act.

(d) Any person who violates section 301, 302, 306, 307, 308, 318 or 405 of this Act, or any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by the Administrator, or by a State, or in a permit issued under section 404 of this Act by a State, and any person who violates any order issued by the Administrator under subsection (a) of this section, shall be subject to a civil penalty not to exceed [$10,000] *$20,000* per day of such violation.

* * * * * * *

(g)(1) Whenever on the basis of any information available to him—

(A) the Administrator finds that any person is in violation of section 301, 302, 306, 307, 318, or 405 of this Act, or is in violation of any permit condition or limitation implementing any of such sections in a permit issued under section 402 of this Act by him or by a State, or

(B) the Secretary of the Army, acting through the Chief of Engineers (hereinafter referred to as the "Secretary") finds that any person is in violation of any permit condition or limitation implementing any of such sections in a permit issued under section 404 of this Act by a State,

he may, after consultation with the State in which the violation occurs, assess a civil penalty of not more than $10,000 per day of *violation, except that such penalty shall not exceed a total of $75,000.*

(2)(A) A civil penalty shall be assessed under this subsection by the Administrator or Secretary, as the case may be, by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Administrator or Secretary, as the case may be, shall give written notice to the person to be assessed a civil penalty under such order of the Administrator's or Secretary's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Administrator or Secretary, as the case may be, shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, economic savings (if any) resulting from the violation, and such other matters as justice may require.

(C) The Administrator of Secretary, as the case may be, may compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United states to the person charged.

(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3), or

(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Administrator or the Secretary, as the case may be,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(5) The Administrator or Secretary, as the case may be, shall have the authority to issue subpoenas in connection with hearings under paragraph (2) of this subsection and may request the Attorney General to bring an action to enforce any subpena under this subsection. The district courts shall have jurisdiction to enforce such subpenas and impose sanctions.

(6) Action taken by the Administrator or Secretary, as the case may be, pursuant to this subsection shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act, except that any violation with respect to which a civil penalty is imposed under this subsection shall not be subject to a civil penalty under section 309(d) or section 311(b) of this Act.

(7) When a State has proceeded with an enforcement action relating to a violation with respect to which the Administrator or the Secretary is authorized to assess a civil penalty under this subsection, the Administrator and the Secretary are not authorized to take any action under this subsection if the State demonstrates that the State imposed penalty is appropriate.

* * * * * * *

CLEAN LAKES

SEC. 314. (a) Each State shall prepare or establish, and submit to the Administrator for his approval—

(1) an identification and classification according to eutrophic condition of all publicly owned [fresh water] lakes in such State;

(2) procedures, processes, and methods (including land use requirements), to control sources of pollution of such lakes; and

(3) methods and procedures, in conjunction with appropriate Federal agencies, to restore the quality of such lakes.

(b) The Administrator shall provide financial assistance to States in order to carry out methods and procedures approved by him under *subsection (a) of* this section. *The Administrator shall provide financial assistance, to States to prepare the identification and classification surveys required in subsection (a)(1) of this section.*

(c)(1) The amount granted to any State for any fiscal year under *subsection (b) of* this section shall not exceed 70 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under *subsection (a) of* this section.

(2) There is authorized to be appropriated $50,000,000 for the fiscal year ending June 30, 1973; $100,000,000 for the fiscal year 1974; *$150,000,000 for the fiscal year 1975, $50,000,000 for fiscal year 1977, $60,000,000 for fiscal year 1978, $60,000,000 for fiscal year 1979, $60,000,000 for fiscal year 1980*, $30,000,000 for fiscal year 1981, [and $30,000,000 for fiscal year 1982] *$30,000,000 for fiscal year 1982. and $30,000,000 per fiscal year for each of the fiscal years 1983, 1984, 1985, 1986, 1987, and 1988* for grants to States under *subsection (b) of* this section which such sums shall remain available until expended. The Administrator shall provide for an equitable distribution of such sums to the States with approved methods and procedures under *subsection (a) of* this section.

(d)(1) The Administrator shall make grants to States for priority projects for control and nonpoint sources of pollution which are contributing to the degradation of water quality in lakes. The Administrator shall provide an equitable distribution of such sums to the States.

(2) The amount granted to a State for a project under this subsection shall not exceed 70 per centum of the cost of such project.

(3) There is authorized to be appropriated to carry out this subsection not to exceed $100,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, September 30, 1988, And September 30, 1989. Sums appropriated shall remain available until expended.

(e)(1) Any State may prepare, and submit to the Administrator for his approval—

(A) a survey of water quality deterioration in lakes and other waters in such State which has resulted from high acidity which may be due to acid deposition, and

(B) methods and procedures which may be applied to lakes and other waters in such State to restore water quality, insofar as such quality has deteriorated as a result of high acidity which may be due to acid deposition.

(2)(A) The Administrator shall make grants to States to carry out methods and procedures approved by the Administrator under this subsection. Such methods may include, but are not limited to, (i) innovative methods of neutralizing and restoring buffering capacity of lakes and other waters that have become so acidic as to endanger game fish species, and (ii) methods of removing from lakes and other bodies of water toxic metals and other toxic substances mobilized by high acidity.

(B) The amount granted under this section to any State for any fiscal year shall not exceed 80 per centum of the funds expended by such State in such year for carrying out approved methods and procedures under this subsection.

(C) The Administrator shall provide for an equitable distribution of sums appropriated under this subsection among States with approved methods and procedures. Such distribution shall be based on the relative need of each such State for the restoration of water quality which has deteriorated as a result of high acidity which may be due to acid deposition. The amount of any grant to a State under this subsection shall be in addition to, and not in lieu of, any other Federal financial assistance.

(3) There is authorized to be appropriated to carry out this subsection $25,000,000 per fiscal year for each of the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, September 30, 1988, and September 30, 1989. Amounts appropriated under this subsection shall remain available until expended.

(f) The Administrator shall submit annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the status and trend of water quality in lakes in the United States, including but not limit to, the nature and extent of pollution loading from point and nonpoint sources and the extent to which the use of lakes is impaired as a result of such pollution, particularly with respect to toxic pollution.

(g) The Administrator shall, in cooperation with the State of Texas, study water quality problems in Lake Houston, Houston, Texas, and undertake such control measures as the Administrator and State determine are necessary to improve water quality. Such study shall include, but not be limited to, the evaluation of the feasibility of regional or consolidated waste treatment facilities and the development of recommendations for the cost-effective control of

pollutants entering the Lake Houston watershed. The Administrator shall submit a report of such study and identify such structural or nonstructural controls which were undertaken or are proposed, along with recommendations for further measures, to improve the water quality of Lake Houston, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate not later than two years after the date of enactment of this subsection. There is authorized to be appropriated for fiscal years beginning after September 30, 1984, $10,000,000 to carry out this subsection, to remain available until expended.

(h) The Administrator, in cooperation with the Secretary of the Army, acting through the Chief of Engineers, and in consultation with appropriate State and local agencies, shall conduct a one-year comprehensive study of the Beaver Lake, Arkansas, to identify measures which will optimize achievement of the purposes for which Beaver Dam was constructed while preserving and enhancing the quality of the reservoir's water. Upon completion of the study the Administrator shall undertake a demonstration project at Beaver Lake to determine the effectiveness of measures identified in such study for preserving and enhancing the quality of the reservoir's water for current and future users. Upon completion of the demonstration project the Administrator shall submit a report of such study and project, along with recommendations for further measures to improve the water quality of Beaver Lake, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. Funds appropriated under subsections (c), (d), and (e) of this section shall be available to carry out this subsection.

(i) The Administrator shall undertake a demonstration project for the removal of silt, stumps, and other obstructions from Greenwood Lake and Belcher Creek, New Jersey. Upon completion of the demonstration project the Administrator shall submit a report of such project, along with recommendations for further measures to improve the water quality of Greenwood Lake and Belcher Creek, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. There is authorized to be appropriated $10,000,000 to carry out this subsection.

(j) The Administrator shall undertake a demonstration project for the removal of silt and stumps from, and the control of pollution from nonpoint sources in, Deal Lake, Monmouth County, New Jersey. Upon completion of the demonstration project, the Administrator shall submit a report of such project, along with recommendations for further measures to improve the water quality of Deal Lake, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. There is authorized to be appropriated $8,000,000 to carry out this subsection.

(k) The Administrator shall undertake a demonstration project for the restoration of Alcyon Lake, New Jersey, including removal and disposal of contaminated sediments in the lake. Upon completion of the demonstration project, the Administrator shall submit a report of such project, along with recommendations for further

measures to improve the water quality of Alcyon Lake, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate. There is authorized to be appropriated $3,500,000 to carry out this subsection.

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NONPOINT SOURCE CONTROL IMPLEMENTATION PROGRAMS

SEC. 319. (a)(1) The Governor of each State shall prepare and submit to the Administrator for his approval, a report which—

(A) identifies those portions of the navigable waters within the State which, as a result (in whole or in part) of pollution from nonpoint sources, are not meeting applicable water quality standards or the goals and requirements of this Act;

(B) identifies those categories and subcategories of nonpoint sources which add significant pollution to each portion of the navigable waters identified under subparagraph (A) in amounts which contribute to such portion not meeting such water quality standards or such goals and requirements;

(C) identifies and describes State and local programs for controlling pollution added from nonpoint sources to, and improving the quality of, each such portion of the navigable waters, including but not limited to those programs which are receiving Federal assistance under subsection (1); and

(D) describes the process, including intergovernmental coordination and public participation, for identifying best management practices and measures to control each category and subcategory of nonpoint sources identified under subparagraph (B) and to reduce, to the maximum extent practicable, the level of pollution resulting from such category or subcategory.

(2) Each report submitted under paragraph (1) shall be based on available information including, but not limited to, information available under sections 208, 303(e), 304(f), and 305(b) of this Act, and may include all or part of any water quality management program approved under section 208 or 303 of this Act.

(b)(1) The Governor of each State shall prepare and submit to the Administrator for his approval—

(A) a plan which such State proposes to implement in the first four fiscal years beginning after the date of submission of such plan for controlling pollution added from nonpoint sources to the navigable waters within the State and improving the quality of such waters; and

(B) a report which (i) identifies each department, agency, or instrumentality of the United States and each department, agency, or instrumentality of the State which is likely to be engaging in, supporting, or providing financial assistance in each of such fiscal years for any activity or program in the State which, if carried out, would be inconsistent with implementation of such plan in such fiscal years, and (ii) recommends to the Administrator methods by which such Federal department, agency, or instrumentality could modify administration of such activity or program, and describes methods by which such State department, agency, or instrumentality intends to modify ad-

ministration of such activity or program, so that such activity or program is consistent with, and assists the State in implementation of, such plan.

(2) Each plan proposed for implementation under this subsection shall specify—

(A) from among those portions of navigable waters significantly affected by pollution added from nonpoint sources, each portion and land area contributing such pollution with respect to which the State plans to assist, encourage, or require implementation of best management practices and measures in the first four fiscal years beginning after the date of submission of such plan;

(B) the order in which, and the schedule under which, the State plans to assist, encourage, or require implementation of such practices and measures in such fiscal years;

(C) from among those categories and subcategories of nonpoint sources of pollution which contribute to each portion specified under subparagraph (A) not meeting applicable water quality standards or the goals and requirements of this Act, the categories and subcategories with respect to which the State plans to assist, encourage, or require implementation of such practices and measures in such fiscal years and the relative contribution of such pollution by category and subcategory of such sources;

(D) the best management practices and measures the implementation of which the State plans to assist, encourage, or require in each of such fiscal years to reduce pollution resulting from nonpoint sources and to improve water quality;

(E) the methods, by category and subcategory of such sources of pollution, (including, but not limited to, demonstration, enforcement, technical assistance, education, training, and cost-sharing programs) which the State plans to use to encourage, assist, or require implementation of such practices and measures in such fiscal years; and

(F) sources of Federal and other assistance (other than assistance provided under subsection (i)) which will be available in each of such fiscal years for supporting implementation of such practices and measures and the purposes for which such assistance will be used in each of such fiscal years.

(3) Each plan submitted by a State under this subsection shall be accompanied by a certification of the attorney general of the State or the chief attorney of any State water pollution control agency which has independent legal counsel that the laws of the State provide adequate authority to implement such plan or, if there is not such adequate authority, a list of such additional authority which will be necessary to implement such plan.

(4) The schedule required by paragraph (2)(B) shall establish for each category and subcategory of nonpoint sources of pollution specified under paragraph (2)(C) an expeditious time period for implementation of best mangement practices and measures specified under paragraph (2)(D) and shall indicate the estimated dates for implementation of such practices and measures.

(5) In developing and implementing a plan under this subsection, a State shall, to the maximum extent practicable, utilize local

public and private agencies and organizations which have expertise in control of nonpoint sources of pollution.

(6) A State shall, to the maximum extent practicable, develop and implement a plan under this subsection on a watershed-by-watershed basis.

(c)(1) Any report required by subsection (a) and any plan and report required by subsection (b) shall be submitted to the Administrator during the 270-day period beginning on the date of enactment of this section; except that upon request of the Governor, the Administrator shall extend such period for not to exceed an additional 270 days.

(2) If a Governor of a State does not submit the report required by subsection (a) during such period, the Administrator shall prepare a report for such State which makes the identifications required by paragraphs (1)(A) and (1)(B) of subsection (a).

(d) The Administrator shall consolidate recommendations for modifications of activities and programs submitted by the States under subsection (b)(1)(B) and submit such consolidated recommendations to the appropriate departments, agencies, and instrumentalities of the United States. Each such department, agency, or instrumentality, to the maximum extent practicable and consistent with existing law, shall accommodate such recommendations and shall carry out its own activities and programs in a manner which is consistent with, and will assist implementation of, the plan submitted by the State under subsection (b) and approved by the Administrator under this section.

(e)(1) Subject to paragraph (2), not later than 180 days after the date of submission to the Administrator of any report or plan under this section (other than subsections (i) and (j)), the Administrator shall either approve or disapprove such report or plan, as the case may be. The Administrator may approve a portion of a plan under this subsection. If the Administrator does not disapprove a report, plan, or portion of a plan in such 180-day period, such report, plan, or portion shall be deemed approved for purposes of this section.

(2) If, after notice and opportunity for public comment and consultation with appropriate Federal and State agencies and other interested persons, the Administrator determines that a plan submitted under subsection (b) or any portion thereof is not likely to satisfy, in whole or in part, the goals and requirements of this Act, that adequate authority does not exist, or adequate resources are not availabale, to implement such plan or portion, that the schedule for implementing such plan or portion is not sufficiently expeditious, or that the practices and measures proposed in such plan or portion are not adequate to improve the quality of navigable waters in the State and to reduce the level of pollution in navigable waters in the State resulting from nonpoint sources, the Administrator shall disapprove the plan or portion thereof with respect to which the Administrator makes such detrmination. The Administrator shall notify the State of such disapproval and request specific revisions of such plan or portion necessary to obtain approval of such plan or portion. Not later than 90 days after the date of such notification, the State shall submit to the Administrator for his approval under this subsection its revisions of such plan or portion.

(f) If a State fails to submit a plan under subsection (b) or the administrator does not approve such a plan, a local public agency or organization which has expertise in, and authority to, control pollution resulting from nonpoint sources in any area of such State which the Administrator determines is of sufficient geographic size may, with approval of such State, request the Administrator to provide, and the Administrator shall provide, technical assistance to such agency or organization in developing for such area a plan which is described in subsection (b) and meets the requirements of subsection (e). After development of such plan, such agency or organization shall submit such plan to the Administrator for his approval. If the Administrator approves such plan, such agency or organization shall be eligible to receive financial assistance under subsection (i) for implementation of such plan as if such agency or organization were a State for which a report submitted under subsection (a) and a plan submitted under subsection (b) were approved under this section. Such financial assistance shall be subject to the same terms and conditions as assistance provided to a State under subsection (i).

(g) Upon request of a State, the Administrator may provide technical assistance to such State in developing a plan under subsection (b) for those portions of the navigable waters requested by such State.

(h)(1) If any portion of the navigable waters in any State which is implementing a plan approved under this section is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or part, of pollution from nonpoint sources in another State, such State may petition the Administrator to convene, and the Administrator shall convene, a management conference of all States which contribute pollution resulting from nonpoint sources to such portion. If, on the basis of information available to him, the Administrator determines that a State is not meeting applicable water quality standards or the goals and requirements of this Act as a result, in whole or part, of pollution from nonpoint sources in another State, the Administrator shall notify such States. The Administrator may convene a management conference under this paragraph not later than 180 days after giving such notification, whether or not the State which is not meeting such standards requests such conference. The purpose of such conference shall be to develop an agreement among such States to reduce the level of pollution in such portion resulting from nonpoint sources and to improve the quality of such portion.

(2) Each State which contributes significant pollution from nonpoint sources to the portion of navigable waters in amounts which contribute to such portion not meeting applicable water quality standards or the goals and requirements of this Act shall submit to the Administrator for his approval a plan referred to in subsection (b) to reduce the level of pollution in such portion resulting from nonpoint sources in such State and to improve the quality of such portion; except that if such State has an approved plan under subsection (b), such State shall revise such plan to reduce the level of pollution in such portion resulting from nonpoint sources in such State and to improve the quality of such portion and submit such revised plan to the Administrator for his approval under this sec-

tion. Such plan or revised plan shall be consistent with existing Federal and State law. After approval, the State shall implement such plan or revised plan.

(i)(1) Upon application of a State for which a report submitted under subsection (a) and a plan submitted under subsection (b) is approved under this section, the Administrator shall make grants under this subsection to such State for the purpose of assisting the State in implementing such plan.

(2) An application for a grant under this subsection in any fiscal year shall be in such form and shall contain—

(A) an identification and description of the best management practices and measures which the State proposed to assist, encourage, or require in such year with the Federal assistance to be provided under the grant; and

(B) such other information as the Administrator may require.

(3)(A) The Federal share of the cost of each plan implemented with Federal assistance under this subsection in any fiscal year shall not exceed 50 percent of the cost incurred by the State in implementing such plan excet that the Federal share of those costs of any such plan which are attributable to a watershed area with respect to which the Administrator determines that a significant number of non-Federal, non-State interests of such area are willing and able to enter into agreements to participate in such year in nonpoint source pollution control measures under such plan shall be not less than 50 percent and not more than 60 percent.

(B) For purposes of this paragraph, administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against activities and programs carried out with a grant under this subsection shall not exceed in any fiscal year 10 percent of the amount of the grant in such year, except that costs of implementing enforcement and regulatory activities, education, training, technical assistance, demonstration projects, and technology transfer programs shall not be subject to this limitation.

(4) No grant may be made to a State under this subsectin in any fiscal year unless such State enters into such agreements with the Administrator as the Administrator may require to ensure that such State will maintain its aggregate expenditures from all other sources for programs for controlling pollution added to the navigable waters in such State from nonpoint sources and improving the quality of such waters at or above the average level of such expenditures in its two fiscal years preceding the date of enactment of this subsection.

(5)(A) Each State which receives a grant under this subsection in any fiscal year shall submit to the Administrator a written report which describes the activities and programs carried out in the State under such grant and the progress made by such State in meeting the schedule specified under subsection (b)(2)(B).

(B) No grant may be made under this subsection in any fiscal year to a State which in the preceding fiscal year received a grant under this subsection unless the Administrator determines that such State made satisfactory progress in such preceding fiscal year in meeting the schedule specified by such State under subsection (b)(2)(B).

(6) Notwithstanding any other provision of this subsection, not more than 15 percent of the amount appropriated to carry out this

subsection may be used to make grants to any one State, including any grants to any local public agency or organization with authority to control pollution from nonpoint sources in any area of such State.

(7) For each fiscal year beginning after September 30, 1986, the Administrator may give priority in making grants under this subsection, and shall give consideration in determining the Federal share of any such grant, to any State which has included effective regulatory mechanisms in an approved State plan under this section and has implemented such mechanisms in the preceding fiscal year. Such mechanisms shall include, but are not limited to, deadlines for implementation of best management practices and enforcement procedures to ensure implementation of such plan.

(8) There is authorized to be appropriated to carry out this subsection not to exceed $150,000,000 per fiscal year for the fiscal years ending September 30, 1985, September 30, 1986, September 30, 1987, September 30, 1988, and September 30, 1989. Sums appropriated to carry out this subsection shall remain available until expended.

(j)(1) Not later than January 1, 1985, and each January 1 thereafter the Administrator shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate, a report for the preceding fiscal year on the activities and programs implemented under this section and the progress made in reducing pollution in the navigable waters resulting from nonpoint sources and improving the quality of such waters.

(2) Not later than January 1, 1988, the Administrator shall transmit to Congress a final report on the activities carried out under this section. Such report, at a minimum shall include—

(A) an analysis of the effectiveness of plans carried out under this section and of the best management practices and measures utilized under those plans in controlling nonpoint sources of pollution;

(B) an analysis of the level of State participation in implementing such plans; and

(C) recommendations of the Administrator concerning future programs (including enforcement programs) for controlling pollution from nonpoint sources.

(k) Not less than 5 percent of the funds appropriated to carry out subsection (i) for any fiscal year shall be available to the Administrator to maintain personnel levels at the Environmental Protection Agency at levels which are adequate to carry out this section in such year.

TITLE IV—PERMITS AND LICENSES

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NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Sec. 402. (a)(1) * * *

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(b) At any time after the promulgation of the guidelines reuired by subsection (h)(2) of section 304 of this Act, the governor of each States desiring to administer its own permit program for discharges into navigable waters within its jurisdication may submit to the Administrator a full and complete description of the program it proposes to establish and administer under State law or under an interstate compact. In addition, such State shall submit a statement from the attorney general (or the attorney for those State water pollution control agencies which have independent legal counsel), or from the chief legal officer in the case of an interstate agency, that the laws of such State or the interstate compact, as the case may be, provide adequate authority to carry out the described program. The Administrator shall approve each such submitted program unless he determines that adequate authority does not exist:

(1) To issue permits which—

(A) apply, and insure compliance with, any aplicable requirements of section 301, 302, 306, 307, and 403;

[(B) are for fixed terms not exceeding five years; and]

(B) are for fixed terms not exceeding ten years, except in the case of a permit which modifies any requirement of this Act under section 301(c), (g), (h), or (m) of this Act and except in any case in which the State determines that the applicant has not consistently complied with any permit held by such applicant under this section, in which cases such permits shall be issued for fixed terms not exceeding five years;

* * * * * * *

(D) must be modified promptly to insure compliance with any new or revised effluent limitation under section 307(a) of this Act which is more stringent than an effluent limitation in the permit or which controls a pollutant not controlled in the permit; and

[(D)] *(E)* control the disposal of pollutants into wells;

* * * * * * *

(c)(1) Not later than ninety days after the date on which a State has submitted a program (or revision thereof) pursuant to subsection (b) of this section, the Administrator shall suspend the issuance of permits under subsection (a) of this section as to those [navigable waters] *discharges* subject to such program unless he determines that the State permit program does not meet the requirements of subsection (b) of this section or does not conform to the guidelines issued under section 304(*i*)(2) of this Act. If the Administrator so determines, he shall notify the State of any revisions or modifications necessary to conform to such requirements or guidelines.

* * * * * * *

(4) A State may return administration of its permit program to the Administrator, and the Administrator may withdraw approval of a State permit program under paragraph (3) of this subsection (A) in the case of any approval under subsection (n)(3), the entire permit program being administered by the State department or agency at the time of such return or withdrawal, as the case may be, or (B) in the case of any approval under subsection (n)(4), any phased compo-

nent approved at the time of such return or withdrawal, as the case may be.

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(l)(*1*) The Administrator shall not require a permit under this section for discharges composed entirely of return flows from irrigated agriculture, nor shall the Administrator directly or indirectly, require any State to require such a permit.

(2) The Administrator shall not require a permit under this section, nor shall the Administrator directly or indirectly require any State to require such a permit for discharges of stormwater runoff from mining operations or oil or gas exploration, production, processing, or treatment operations, composed entirely of flows which are from conveyances or systems of conveyances (including but not limited to pipes, conduits, ditches, and channels) used for collecting and conveying precipitation runoff and which are not contaminated with process wastes, overburden, raw materials, toxic pollutants above natural background levels, spilled product, hazardous substances in excess of reportable quantities as determined by the Administrator, or oil or grease.

(m) To the extent a treatment works (as defined in section 212 of this Act) which is publicly owned is not meeting the requirements of a permit issued under this section for such treatment works as a result of inadequate design or operation of such treatment works, the Administrator, in issuing a permit under this section, shall not require pretreatment by a discharger of conventional pollutants identified pursuant to section 304(a)(4) of this Act which are introduced into such treatment works other than pretreatment required to assure compliance with pretreatment standards under subsection (b)(8) of this section and section 307(b)(1) of this Act. Nothing in this subsection shall affect the Administrator's authority under sections 307 and 309 of this Act, affect State and local authority under sections 307(b)(4) and 510 of this Act, relieve such treatment works of its obligations to meet requirements established under this Act, or otherwise preclude such works from pursuing whatever feasible options are available to meet its responsibility to comply with its permit under this section.

(n)(1) The Governor of a State may submit under subsection (b) of this section a permit program for a portion of the discharges into the navigable waters in such State.

(2) A partial permit program under this subsection shall cover at a minimum administration of a major category of the discharges into the navigable waters of the State or a major component of the permit program required by subsection (b).

(3) The Administrator may approve a partial permit program covering administration of a major category of discharges under this subsection if—

(A) such program represents a complete permit program and covers all of the discharges under the jurisdiction of a department or agency of the State; and

(B) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b).

(4) The Administrator may approve under this subsection a partial and phased permit program covering administration of a major component (including discharge categories) of a State permit program required by subsection (b) if—

(A) the Administrator determines that the partial program represents a significant and identifiable part of the State program required by subsection (b); and

(B) the State submits, and the Administrator approves, a plan for the State to assume administration by phases of the remainder of the State program required by subsection (b) by a specified date not more than five years after submission of the partial program under this subsection and agrees to make all reasonable efforts to assume such administration by such date.

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TITLE V—GENERAL PROVISIONS

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GENERAL DEFINITIONS

Sec. 502. Except as otherwise specifically provided, when used in this Act:

(1) * * *

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(14) The term "point source" means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include *agriculture stormwater discharge and* return flows from irrigated agriculture.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Sec. 509. (a)(1) * * *

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(b)(1) Review of the Administrator's action (A) in promulgating any standard of performance under section 306, (B) in making any determination pursuant to section 306(b)(1)(C), (C) in promulgating any effluent standard, prohibition, or pretreatment standard under section 307, (D) in making any determination as to a State permit program submitted under section 402(b), (E) in approving or promulgating any effluent limitation or other limitation under sections 301, 302, or 306 **[**and**]** (F) in issuing or denying any permit under section 402 *in promulgating any individual control strategy under section 304(1),* may be had by any interested person in the Circuit Court of Appeals of the United States for the Federal judicial district in which such person resides or transacts such business upon application by such person. Any such application shall be made within ninety days from the date of such determination, approval, promulgation, issuance or denial, or after such date only if such application is based solely on grounds which arose after such ninetieth day.

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REPORTS TO CONGRESS

Sᴇᴄ. 516. (a) * * *

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(f) The Administrator, in cooperation with interested States and Federal agencies, shall study and monitor the effects on the quality of navigable waters attributable to the impoundment and discharge of water by dams. The results of such study, together with any recommendations for the control of such impoundment and discharge, shall be submitted to Congress not later than December 31, 1985.

GENERAL AUTHORIZATION

Sᴇᴄ. 517. There are authorized to be appropriated to carry out this Act, other than sections 104, 105, 106(a), 107, 108, 112, 113, 114, 115, 206, 207, 208 (f) and (h), 209, 304, 311 (c), (d), (i), (l), and (k), 314, 315, and 317, $250,000,000 for the fiscal year ending June 30, 1973, $300,000,000 for the fiscal year ending June 30, 1974, $350,000,000 for the fiscal year ending June 30, 1975, $100,000,000 for the fiscal year ending September 30, 1977, $150,000,000 for the fiscal year ending September 30, 1978, $150,000,000 for the fiscal year ending September 30, 1979, $150,000,000 for the fiscal year ending September 30, 1980, $150,000,000 for the fiscal year ending September 30, 1981, ⟦and $161,000,000 for the fiscal year ending September 30, 1982.⟧ *$161,000,000 for the fiscal year ending September 30, 1982, and $160,000,000 per fiscal year for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.*

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ADDITIONAL VIEWS OF CONGRESSMAN ARLAN STANGELAND

I want to congratulate the Members of the Committee for fashioning legislation that is a significant step forward in achieving needed Clean Water Act amendments this Congress. The leadership of Subcommittee Chairman Bob Roe and, for course, Committee Chairman Jim Howard and Ranking Member Gene Snyder, has been particularly important. Many key issues were resolved and a balance of interests has, for the most part, been maintained that will permit continued progress toward the clean water goals we all desire and which the American people deserve.

Any legislation can, of course, be improved, and I expect some changes prior to final enactment of H.R. 3282.

An important issue of local control and effective wastewater treatment programs was not included in the bill as voted out of the Committee on Public Works and Transportation. Industries that discharge into publicly owned treatment works (POTWs) instead of directly into water bodies are required to "pretreat" their discharges. The program now in the Act focuses on national categorical standards, a uniform system that, despite many problems EPA has had developing it, will be valuable in most communities across the United States.

There are, however, numerous examples of cities which have had outstanding programs in place for years. Some of these communities have personnel, funding, and technical facilities that have resulted in exemplary systems. To force these programs into a national system just for "consistency" may be counterproductive to the goal of achieving effective water pollution control.

The purpose of the pretreatment program is to prevent industrial pollutants from interfering with operation of POTWs and to assure no pass-through of toxic pollutants. The diversity of design and operation of POTWs makes an inflexible, uniform system most difficult to adapt to every situation. In addition, POTWs have been shown to treat a wide variety of pollutants from many sources more effectively than had been expected. Flexibility, within a stringent series of guidelines, is therefore needed where local programs can meet the water quality and discharge standards and requirements that have been set.

I gave serious consideration to offering an amendment in Subcommittee and Full Committee to authorize a local option pretreatment program. Further review and refinement seemed warranted and I plan to continue to pursue the possibility as the legislation moves forward. During Committee markup of H.R. 3282, assurance was given that rights to bring such an issue up on the Floor would be preserved despite the fact that an amendment was not offered during Subcommittee or Full Committee markup.

ARLAN STANGELAND.

ADDITIONAL VIEWS OF REPRESENTATIVE BOB EDGAR ON H.R. 3282

This bill represents the product of literally years of hearings and consideration by the Committee on Public Works and Transportation. As a matter of policy, authorizing legislation to extend the Clear Water Act provides essential continuity and is a reiteration of the commitment of Congress to clean up the nation's waters. As we reach the mid-1980's—the time envisioned by the original 1972 Act when most of our water pollution control goals should be achieved—we should reflect and adjust programs in line with the experience we have gained with pollution control programs. Our main pursuit, though, should still be finding ways to achieve and preserve the ultimate goal of fishable, swimable, pollution-free water adopted under the 1972 Act.

I was a cosponsor of the original HR 3282 and continue to believe that the bill as amended by the committee makes a number of contributions toward cleaning up our waters. Among the most positive aspects of the bill are an important new grant program to encourage states to clean up nonpoint pollution from runoff, new programs to clean up lakes and estuaries such as the Chesapeake Bay, and increases in funding for grants and loans for municipal wastewater treatment.

I was disappointed that some of the most forceful environmental provisions of the introduced version of HR 3282, such as the codification of strong water quality standards, were stripped from the bill during full committee consideration. I was further disappointed at some of the additions to the legislation made during committee proceedings which have the effect of delaying enforcement of, or even weakening, existing law. Among the most problematic of these provisions are a liberal extension—from five to ten years—of discharge permits issued under the national program to control industrial pollution; an extension of the deadline for the electroplating industry, which discharges over 50 million tons of toxic chemicals and metals each year, to comply with duly issued standards for pollution treatment; and a loophole which allows mining companies to reopen abandoned mines and ignore the stringent pollution control measures normally required at such mines. I am also discouraged that the committee saw fit to grant variences of normal pollution control requirements for two pulp mills in Alaska, contrary to the decisions of the EPA.

Granting waivers, delays, and variances for specific industries or firms can only encourage those who might see some short-term benefit in more substantial weakening of the critical provisions of the Clean Water Act. Congress knew that the goals of the Act would be difficult and expensive to achieve when the Act first passed, but Congress also realized that the long-term consequences of poisoning the environment and destroying our natural resources are even more costly. By and large, progress has been made in cleaning up pollution. Citizens, industry and government at all levels have made important efforts to accustom themselves to the far-sighted requirements of care for the environment. Yet, it will be difficult to sustain this progress if Congress is going to be seen as backing down from some of the most difficult tasks or as granting inequitable relief from regulations.

We all realize that sometimes unrealistic deadlines may be set into legislation or that new techniques or technologies may arise which should prompt us to change some of the rules. The original HR 3282 took this into account by extending deadlines under the best available and best conventional technology requirements of the Act. I believe, though, that once realistic (even though difficult) dealines are set and appropriate technology is found, we should get on with the job proposed by the Clean Water Act—cleaning up pollution.

I know every member of the committee shares the goal of controlling pollution. I believe this legislation takes some important further steps toward that goal. I only hope that, through the further legislative process, we can yet examine those provisions which may in fact undermine some of the goals we all share.

BOB EDGAR.

ADDITIONAL VIEWS OF CONGRESSWOMAN NANCY L. JOHNSON CONCERNING H.R. 3282

Although I cosponsored Chairman Howard's original version of H.R. 3282 and supported the subcommittee's substitute language and en bloc amendments, I wish to make very clear my serious concern for the extensions provided for electroplaters in section 31 of the reported bill.

While I can appreciate the uncertainty surrounding the promulgation of the electroplating pretreatment standards, these standards first were issued by the Environmental Protection Agency in 1979, fully five years ago. Many electroplating companies have taken the time and spent the money necessary to comply with these rules yet, under the provisions of H.R. 3282, will be forced to wait still longer for their noncomplying counterparts to "catch up."

The disparity in compliance efforts nationwide may be seen most readily in the State of Connecticut, whose Sixth District I proudly represent, and whose electroplaters and metal finishers are overwhelmingly in compliance with stringent pretreatment standards. Many of my constituent companies have complained that, because of lax enforcement, bureaucratic intransigence, or outright flaunting of federal law, their counterparts in nearby states have not moved to comply with the standards and consequently have been able to underbid them by as much as fifteen percent. Obviously, much of this price differential may be attributed to the extra costs incurred by my constituents who must meet these stringent standards.

In light of warnings from the National Association of Metal Finishers to its members fully a year ago that they comply with the pretreatment standards, I believe that electroplaters nationwise should move to comply promptly. The December, 1984, deadline is a fair compromise but the six-month extension possible under the bill is ripe for abuse. I am certain that other members of the Committee share my interest in seeing that such abuses do not occur and that only those companies with a serious, documented problem with coming into compliance by the end of this year be granted the additional six months permitted under the bill. I strongly urge the Environmental Protection Agency to take heed of Chairman Roe's remarks on this subject at the Committee markup, to wit: "I would hope that EPA would take the direction the Committee has given it and move with the greatest of dispatch. . . . that what's in this legislation the Committee means." Mr. Edgar also expressed serious concern with this deadline extension and I trust that those interested in abiding by the Committee's intent look to his colloquy with Chairman Roe as well.

I commend Chairman Howard, Chairman Roe, and Ranking Members Snyder and Stangeland for moving this important environmental legislation through the Committee this year and look forward to seeing substantial compliance with the standards set forth in this bill. As I pointed out at the Committee markup, I will work for significantly increased penalties on noncomplying companies if good faith efforts are not made to abide by the laws of the land.

NANCY L. JOHNSON.

ADDITIONAL VIEWS OF REPRESENTATIVE E. CLAY SHAW TO H.R. 3282

I am concerned about the deletion of Section 404 strengthening language in H.R. 3282. I am from a state where public concern over the erosion of wetlands is at an all-time high. There is good reason for this concern. Florida has lost over half its original wetlands since 1850, from 20.3 million acres to only 8 million, a 60 percent loss. Between 1900 and 1973, 40 percent of the wetlands in South Florida were lost.

This massive loss and premature draining of wetlands has clearly had an adverse effect in Florida. Studies show that drained agricultural areas in Florida were five degrees colder in the winter than undrained areas. Wetlands drainage in South Florida has contributed to flooding, drought, saltwater intrusion, reduction of fish and wildlife resources and water quality problems.

Despite new awareness of the importance of wetlands and the dire consequences which result when wetlands erode, the loss continues. In Florida's Palm Beach County alone, between the years 1973 and 1980, 24,422 acres of wetlands were lost.

Statistics such as these lead me to believe that this invaluable resource is not being adequately protected. The basic problem seems to be one of interpretation. Who has the basic responsibility for protecting wetlands? The Army Crops of Engineers? The Environmental Protection Agency? The states? There seems to be a lack of agreement on this crucial issue. All will agree, however, that under existing federal law we are continuing to lose wetlands. Something must be done. Whether increased federal or state involvement is the answer, I don't know at this time. It is my hope, however, that we will be revisiting this issue soon. Our current programs governing wetlands are inadequate and this is a problem that urgently needs to be addressed before more acres of this precious resource are lost forever.

E. Clay Shaw, Jr.

SUPPLEMENTAL VIEWS OF HON. LYNN MARTIN

It is my sincere hope that as Clean Water Act reauthorization legislation is further developed, every consideration will be given to amending the Act to allow for some degree of alternative local pretreatment systems in lieu of the Federal pretreatment program. The adoption of such a measure would provide the most progressive Publicly Owned Treatment Works (POTWs) with an opportunity to demonstrate that a local program can meet or even exceed control levels equivalent to Federal Categorical Standards.

Many good-faith POTWs have demonstrated their commitment to controlling industrial discharges to sewer systems for many years. These same programs have imposed controls on industrial facilities to adequately protect the treatment works and the waters which receive the effluent. In addition, these communities have developed responsible sludge management programs that are coordinated with their pretreatment activities. For those locally based programs which have already met or exceeded the intended Federal goals, it is inappropriate to subject them to excessive and duplicative controls. Of course, in those cases where local governments have not implemented effective pretreatment programs on their own accord, then imposition of the Federal pretreatment model is certainly warranted.

In those communities, including my own City of Rockford, which have already made substantial investment in developing responsible and effective local programs, it is extremely difficult to justify the expenditure of large sums for control equipment which will only "treat for treatment's sake." In most localities, this money could be better spent by business for product development, productivity improvement, or an expanded workforce.

While I support efforts aimed at adopting some form of alternative local pretreatment program, I must emphasize that any program which may be adopted must be formulated upon stringent qualifying guidelines. No alternative program is worth jeopardizing our past, present, or future progress toward developing a national pretreatment control program which ensures adequate protection of POTW operations and the environment.

In order to safeguard against any potential abuses by local programs, very tight constraints may be implemented to effectively limit this opportunity to qualified, existing local programs which will continue stringent monitoring of toxicity levels to verify protection of water quality. In addition, local programs must be closely monitored to verify adequacy of protection before consideration of inclusion of new industrial dischargers under the alternative program.

In addressing the pretreatment issue, I believe we have a responsibility to follow a course which is directed not only by good sense, but also by good government. I am hopeful that as debate continues on this matter, a reasonable approach can be developed which would enable many communities to more fully utilize their existing resources without sacrificing environmental goals.

LYNN MARTIN.

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